



EARLY TUDOR GOVERNMENT  
HENRY VIII

LONDON  
Cambridge University Press  
FETTER LANE

NEW YORK • TORONTO  
BOMBAY • CALCUTTA • MADRAS  
Macmillan

TOKYO  
Maruzen Company Ltd

*All rights reserved*

EARLY TUDOR GOVERNMENT  
HENRY VIII

BY

KENNETH PICKTHORN

*Fellow of Corpus Christi College  
and Lecturer in History in the  
University of Cambridge*

CAMBRIDGE  
AT THE UNIVERSITY PRESS  
1934



PRINTED IN GREAT BRITAIN

## PREFACE

Some years ago I began to write a one-volume Constitutional History from 1485. The opening chapters grew longer and longer, partly from a desire to make the starting-point as firm as possible, partly from the necessity of working rather short spells at rather long intervals, and the consequent tendency to elaborate the comparatively detailed. The original intention was soon abandoned, and an attempt undertaken to describe the condition of government and its development under the first two Tudors. Beginning in the middle of the history of English government, I felt bound to try first to indicate the circumstances of a particular generation, and this could hardly be done otherwise than analytically; but I tried to be fairly chronological from the first, and on reaching Henry VIII to make the order mainly that of time rather than that of the topics into which governmental history might be analysed.

I hope that the footnotes indicate all direct obligations to books, and that with the help of the list on pages 544-50 the books may be easily found in catalogues and bibliographies. My personal debts are so many that an enumeration of some of them may look like pretention, but it is possible to owe much without having much to show.

Anything more than the slightest schoolboy interest in constitutional history I owe to the immense good fortune of having been as an undergraduate taught by Mr D. A. Winstanley and Mr G. T. Lapsley, Fellows of Trinity College. Without the late Sir Geoffrey Butler, Fellow and Librarian of Corpus Christi College and Burgess for the University, courage to embark upon a long book would have been lacking. Nor would it have held out but for the kindness of the Regius Professor, of the late Dr J. R. Tanner, Fellow of St John's College, of Professor C. H. Williams of Sidney Sussex College and King's College, London, each of whom read some early portions of the book in the first draft and saved it some errors, as did also Sir William Holdsworth, Vinerian Professor of English Law in the University of Oxford.

Professor A. F. Pollard and Professor A. P. Newton, both of London University, and Professor P. H. Winfield of the University of Cambridge, very kindly and helpfully answered questions which I put to them.

I am very grateful also to the authorities and officials of the British Museum and of the Cambridge University Library, especially to Mr Arthur Ellis, superintendent of the Reading Room, and to Mr Pink of Room Theta, each of whom did much for me which I had no right to expect.

KENNETH PICKTHORN

*Cambridge*

*July 1934*



# CONTENTS

## CHAPTER I

### BEGINNING OF THE REIGN, AND RISE OF WOLSEY, *pp.* 1-11

Dynastic advantages	<i>p.</i> 2	Early councillors	<i>p.</i> 7
Personal advantages	3	Wolsey	8
Inherited fortune	4	Wolsey's rise	9
Empson and Dudley	5	Wolsey's position personal	10
The Dudley incident characteristic	6	Effect on council	11

## CHAPTER II

### COUNCIL, *pp.* 12-36

Council and executive	<i>p.</i> 13	Conciliar jurisdiction	<i>p.</i> 25
Variety of business	14	Star Chamber	26
Council getting fixed	15	Wolsey's use of it	27
Distinct council with the king	16	Requests	28
Privy Council	17	White Hall	29
Star Chamber	18	Enclosures	30
Eltham Ordinances, 1526	19	Wales	31
Their importance	20	Wales reduced to order	32
Council and justices of peace	21	Council of the North	33
An example in 1517	22	Stronger than before	34
Council not an independent power	23	Its final organisation	35
Grandees amenable by council	24	Councils assumed to be popular	36

## CHAPTER III

### RISKS OF DISORDER—ENCLOSURES, ALIENS, DYNASTIC-FEUDAL, OPINION, *pp.* 37-49

London riots, 1517	<i>p.</i> 38	Material weakness of authority	<i>p.</i> 44
Xenophobia	39	Dynastic risks	45
Evil May Day, 1517	40	Trial of Buckingham, 1521	46
City authorities	41	Buckingham's condemnation	47
Executions	42	Politics still largely feudal	48
Royal clemency	43	Buckingham's end	49

## CHAPTER IV

### TAXATION, AND EARLY PARLIAMENTS, *pp.* 50-73

First parliaments, 1510 and 1512	<i>p.</i> 51	More grants	<i>p.</i> 55
Grants	52	Subsidy Act, 1515	56
Privilege, and Strode	53	Anti-clerical troubles—1515 parliament	57
Significance of Strode's case	54		

General muster, 1522	p. 58	Cromwell's comment	p. 66
Loan of 1522 and 1523	59	The Amicable Grant, 1525	67
Parliament of 1523	60	Difficulties of persuasion	68
More and Wolsey	61	Wolsey blamed	69
Wolsey's argument to the commons	62	Richard III's Benevolence Act	70
Outcome of the debate	63	Resistance in the country	71
Landed men and burgesses	64	Government's retreat	72
Importance of the incident	65	Government and opinion	73

## CHAPTER V

## FIDEI DEFENSOR, pp. 74-87

Marriage and spiritual authority	p. 75	Campeggio kept at Calais, 1518	p. 82
Catharine	76	Defender of the Faith, 1521	83
Her children	77	The Seven Sacraments	84
Anne Boleyn	78	First steps towards divorce	85
Divorce	79	Wolsey's danger	86
Henry's relations with Rome	80	Rumours of his fall	87
Legates	81		

## CHAPTER VI

## THE LEGATINE COURT, pp. 88-98

Wolsey's French mission, 1527	p. 89	Legatine court opened, 1529	p. 94
Knight and Gardiner in Rome, 1527-8	90	Henry's and Catharine's appearance	95
Campeggio in London ordered to delay	91	Catharine's recalcitrance	96
Futility of this policy	92	Clement imperialist	97
The brief of Julius II	93	The case revoked to Rome	98

## CHAPTER VII

## CHURCH AND STATE, pp. 99-119

Henry's policy	p. 100	Baronial anti-clericalism	p. 110
His advantages	101	Jurisdictional bounds t.r. H. VIII	111
John, and Wycliffe, and Edward III	102	Hunne	112
Provisors and premunire	103	<i>In favorem haereticæ pravitatis</i>	113
Lancastrians, Avignon, schism	104	Hunne's body burnt	114
Provisors and premunire	105	Standish v. Kidderminster	115
English Church conscious of papal lordship	106	Standish before Convocation	116
Church property	107	Henry's comment	117
Alien priories	108	The prelates' comment	118
Monasteries, and Wolsey	109	Relevance to the matrimonial difficulty	119

## CHAPTER VIII

## THE FALL OF WOLSEY, pp. 120-7

Parliament summoned, 1529	p. 121	Wolsey's admissions	p. 124
Treatment of Wolsey and Campeggio	122	"Law without conscience"	125
Wolsey indicted	123	New appointments	126
		Mostly anti-Roman and anti-Spanish	127

CHAPTER IX

SUPREMACY AND ADMINISTRATION, *pp.* 128-58

Character of the 1529 parliament	<i>p.</i> 129	Wolsey's arrest	<i>p.</i> 146
Hostile evidence	130	His end	147
Parliament not merely subservient	131	Cranmer and the universities	148
Election arrangements	132	The question at issue now more	149
More's speech	133	general	
Anti-clerical bills	134	Henry's qualified sympathy with	150
Fisher's indiscretion	135	Luther	
Bills passed	136	Canterbury prized as high as Rome	151
Finance, and Cromwell	137	The magnates' letter	152
Repudiation Bill, 1529	138	Henry on papal subservience to	153
Its reception	139	empire	
President of the Council	140	The gap widening	154
Articles against Wolsey	141-2	Henry's threat to the nuncio	155
Wolsey broken by king's bench	143	And to the pope	156
rather than parliament		Premunire against the clergy	157
No legal difficulty	144	Supreme Head	158
The signatories against Wolsey	145		

CHAPTER X

SUPREMACY, AND PARLIAMENT, AND THE  
ARAGON MARRIAGE, *pp.* 159-90

Pardon for premunire	<i>p.</i> 160	Warham's protest	<i>p.</i> 175
Henry's comments on the commons'	161	The clerical estate against it	176
pardon		Tradition of clerical appointments	177
The royal marriage before the com-	162	Signs of a breach	178
mons		Supplication against the Ordinaries	179
And before the lords	163	Its significance	180
Pestiferous books, 1530	164	Relations with France and Scotland,	181
Government's attitude to heresy	165	1532	
Henry and Tunstall, 1531	166	Plain speaking in house of commons	182
Collecting the premunire fine from	167	Convocation, 1532	183
the clergy, 1531		The Ordinaries and the authority of	184
Parliament re-assembled, Jan. 1532	168	canons	
Its acts	169	Disclaimer of legislation without	185
Act of Annates, 1534	170	royal authority	
Not easily passed	171	The king's articles	186-7
Wills and Uses	172	Submission of the clergy, 1532	188
Importance of the Annates Act	173	Trial of Latimer, 1532	189
Henry's comment on it	174	Henry's persuasion of him	190

CHAPTER XI

CRANMER, BOLEYN, BARTON, *pp.* 191-224

Warham charged with premunire	<i>p.</i> 192	His reasons	<i>p.</i> 196
Warham's death, 1532	193	Significance of the incident	197
Cranmer's proportion	194	The Boleyn marriage, 1533	198
His oaths	195	Not popular	199

Acts of parliament	p. 200	The dangers	p. 212
Act of Appeals	201	Papal censures ineffective	213
Its intransigence	202	Cromwell and parliament	214
Thomas Cromwell	203	Pamphlets	215
Chapuy's on the government's weakness	204	Henry's good fortune in parliament	216
Henry's confidence	205	Elizabeth Barton	217
Diplomacy	206	Her prophecies	218
Convocation, 1533	207	Her associates	219
Cranmer licenced to decide the king's suit	208	Her attainder, Feb. 1534	220
Cranmer's decision	209	More and Fisher's danger	221
Birth of Elizabeth, 1533	210	Parliament, 1534	222
The great issue joined	211	Barton and five others executed	223
		Delation	224

## CHAPTER XII

PARLIAMENT, SUPREMACY, SUCCESSION,  
TREASON, pp. 225-38

Second Annate Act, 1534	p. 226	Statutory submission of the clergy	p. 232
Act against Papal Dispensations	227	Succession Act, 1534	233
And Peter's Pence	228	The oath it required	234
Last efforts at negotiation	229	Order of the session's proceedings	235
Convocation deny papal jurisdiction, 1534	230	Significance of the session's work	236
Heresy Act	231	Phillips's Case, Feb. 1534	237
		Lords not to answer in lower house	238

## CHAPTER XIII

CRANMER, FISHER, MORE, KILDARE,  
CARTHUSIANS, pp. 239-70

More and Cranmer	p. 240	Henry's and Cromwell's confidence	p. 256
Cranmer's visitation	241	Repression, 1535	257
Cromwell's power	242	Execution of the Carthusians, 1535	258
Dacre's acquittal, 1534	243	Fisher's red hat	259
Dangers to the government	244	True bill against More, June 1535	260
Possible combination of treason and rebellion	245	Judgment against More	261
Reginald Pole	246	More's last arguments	262
Troubles in Ireland	247	The end of More	263
Supremacy Act, 1534	248	Europe's horror	264
Treasons Act, 1534	249	Government propaganda	265
"Conservators of the common weal"	250	Though Henry owed account to no man	266
More and Fisher	251	Ineffectiveness of papal fulmination	267
General pardon, 1534	252	More and Fisher never rivalled Becket	268
Rowland Lee in Wales	253	The logical difficulties	269
Later Welsh statutes	254	Of their position	270
Aristocratic opposition	255		

## CHAPTER XIV

MONASTERIES SUPPRESSED, ANNE BEHEADED,  
ROMAN AUTHORITY EXTINGUISHED, *pp.* 271-303

Early suppressions	<i>p.</i> 272	Anne's execution, May 1536	288
Cromwell's monastic visitation	273	Comments on the Boleyn trials	<i>p.</i> 289
Layton and Leigh, etc., 1535-6	274	Succession Act, 1536	290
Bill against the smaller monasteries, 1536	275	Its provisions	291
Terms of the bill	276	Act extinguishing Roman authority	292
<i>De Vera Obedientia</i>	277	Its provisions	293
The book's success	278	Attainder of Thos. Howard	294
Tuning the universities	279	Cromwell a peer	295
Canon Law Act, 1536	280	Significance of this parliament	296
Court of Augmentations	281	Of June-July 1536	297
Economic statutes	282	The Ten Articles, 1536	298
Statute of Uses, 1536	283	Their authority	299
Uses	284-5	Cromwell's Injunctions, Aug. 1536	300
Death of Catharine of Aragon, Jan. 1536	286	Convocation on general councils	301
Fall of Anne	287	Consciousness of the problem of authority	302
		Tuning press and pulpit	303

## CHAPTER XV

THE DECISIVE CAMPAIGN, THE PILGRIMAGE OF  
GRACE, LINCOLNSHIRE, *pp.* 304-26

Lincolnshire disturbances, Oct. 1536	<i>p.</i> 305	Durham and Yorkshire	<i>p.</i> 316
Demands	306	Earl of Shrewsbury for the king	317
Henry's reply	307	The Articles	318
Special character of the North	308	Robert Aske	319
The great families	309	Lee and Darcy	320
Cromwell and the council	310	Pilgrims	321
Nature of grievances	311	Royal forces	322
Monasteries	312	The Lincolnshire surrender	323
Enclosures	313	Proclamation	324
Rumours	314	Answer to the petitions...	325
Behaviour of monks and friars	315	Its skill	326

## CHAPTER XVI

THE DECISIVE CAMPAIGN, THE PILGRIMAGE OF  
GRACE, YORKSHIRE, *pp.* 327-51

The Pilgrims' Oath	<i>p.</i> 328	Norfolk's campaign	<i>p.</i> 335
Aske at Pontefract	329	His letter to Henry	336
The duke of Norfolk	330	Truce	337
Surrender of Pontefract	331	Norfolk's explanation	338
Aske and Lancaster herald	332	Latimer's sermon	339
The four northern counties	333	Henry's answer to the Yorkshire pilgrims	340
Lancashire and the earl of Derby	334		



Ringleaders must surrender	p. 341	The Pilgrims and parliament	p. 347
Pilgrimage disintegrating	342	Uses, and Common Law	348
Its "great council"	343	The archbishop and non-resistance	349
Government propaganda	344	Norfolk's negotiations	350
The discussions at Pontefract	345	End of the Pilgrimage	351
The demands	346		

## CHAPTER XVII

THE DECISIVE CAMPAIGN, THE PILGRIMAGE OF  
GRACE, RESULTS, *pp.* 352-71

The king in control	p. 353	Condemnation of Aske	p. 363
New disturbances	354	Executions	364
Norfolk and martial law	355	Reasons for the Pilgrimage's failure	365
Henry's recommendation of severity	356	Light thrown on parliament	366
Indictments at Durham	357	What government depended on	367
Levening's acquittal	358	Royal authority fundamental	368
Trials at York	359	Morison's <i>Invective</i>	369
And in Lancashire and Lincolnshire	360	Morison's argument	370
Interrogation	361	Expense of restoring order	371
Difficulty of convicting Darcy	362		

## CHAPTER XVIII

DISSOLUTION OF THE MONASTERIES, *pp.* 372-86

Suppression of the larger monas- teries	p. 373	The dispossessed not ill-provided for	p. 380
Execution of the three abbots, 1539	374	Friars and nuns	381
Suppression statutes	375	The beneficiaries	382
Disposing of monks, etc.	376	Crown not permanently enriched	383
Monastic wealth	377	Chuntries, 1545	384
Lay administrators	378	Strengthening of the gentry	385
An important class	379	Some economic effects	386

## CHAPTER XIX

BUDGET, AND DOGMA, AND DYNASTY, *pp.* 387-402

Taxation, 1540-3	p. 388	Coverdale's edition, 1535	p. 395
Debasement of the coinage, 1542-7	389	Control of Bible reading	396-7
Forced loan, 1542	390	Bull of deposition, 1535-8	398
Later loans and benevolences	391	Henry's proclamation against Becket, 1538	399
Henry left an empty treasury	392	Heretics burnt, 1538	400
Henry having his own way in his last years	393	Poles and Courtenays and Nevilles	401
The Bible	394	Executions	402

CHAPTER XX

CROMWELL'S LAST PARLIAMENT, *pp.* 403-44

Managing the elections, 1539	<i>p.</i> 404	Cromwell in danger, 1540	<i>p.</i> 424
Ministers not unanimous	405	Barnes <i>v.</i> Gardiner, 1540	425
Committee on doctrine	406	Barnes's defeat	426
The Six Articles	407	Cromwell weakened	427
Six Articles Act, 1539	408	Opening of parliament, April 1540	428
Its administration	409	Cromwell in the Tower	429
Attacks on Cranmer	410	Cranmer's word for him	430
Council	411	Cromwell's subservience	431
Cromwell's final period	412	Cromwell's condemnation	432
Proclamations and Precedence Acts, 1539	413	Coke's comment	433
This session not slavish	414	Terms of the attainder	434
Proclamations Act preamble	415	Cromwell beheaded, July 1540	435
Its provisions	416	Heretics burnt	436
Its purpose	417	The Cleves marriage invalid, July 1540	437
Lady Salisbury and Lady Exeter imprisoned	418	Convocation and parliament	438
Musters, May 1539	419	Significance of the procedure	439
Dangers, 1539	420	Catharine Howard	440
Cleves negotiations	421	Statute of Wills, 1540	441
Gardiner's attack on Cromwell	422	Other statutes	442
The Cleves marriage, 1540	423	"Mere jurisdiction"	443
		Act against diversity of opinion	444

CHAPTER XXI

BISHOPS AND HERETICS, COUNCIL, FERRERS,

*pp.* 445-77

Ecclesiastical power and spiritual authority	<i>p.</i> 446	Politics not much affected	<i>p.</i> 461
Cromwell not replaced	447	Henry and parliament	462
Privy Council	448	Its other acts	463
Council proceedings	449	King of Ireland, Jan. 1542	464
Norfolk, Gardiner	450	George Ferrers	465
Cranmer	451	Holinshed's account	466
Executions of Leonard Gray and Dacre of the South, 1541	452	The king's speech	467
Henry Pole and Edward Courtenay spared	453	The chief justice's opinion	468
Henry in the North	454	Significance of the case	469
Catharine Howard in trouble	455	Its significance for the future	470
Parliament, Jan. 1542	456	Significance at the time	471
Catharine's attainder	457	Earlier history	472
Its two second readings	458	Earlier privilege cases	473
Catharine's execution, Feb. 1542	459	Protecting the king's business	474
Henry's grief, and recovery	460	Example of the council	475
		Later cases	476
		Cases <i>t.r.</i> Elizabeth	477

## CHAPTER XXII

## PARTIES POLITICAL AND ECCLESIASTICAL,

*pp.* 478-517

The Counter-Reformation	<i>p.</i> 479	Henry's speech	<i>p.</i> 498
Convocation	480	Against discord	499
Attempts against Cranmer	481	Its reception	500
The King's Book, 1543	482	Its significance	501
Act for the Advancement of True Religion	483	Council of the North, 1545	502
Bible reading	484	Cranmer and superstition, 1546	503
How personal the Supremacy was	485	Gardiner's diplomacy	504
Catharine Parr	486	Diplomacy	505
Succession Act, 1544	487	Crome's heresy, 1546	506
Its significance	488	Latimer and others	507
Finance and prices	489	Heresies in Essex	508
Other statutes	490	Anne Askew and others	509
Another attempt against Cranmer	491	Anne Askew in Newgate	510
Persons and politics, 1544	492	Tortured	511
Last attempt against Cranmer	493	Heretical books	512
The story of the ring	494	Catharine Parr and Gardiner	513
Cranmer's enemies confounded	495	Henry's illness	514
Parliament, Nov. 1545	496	The plotters baffled	515
Subsidies	497	Blagge	516
		Council developing	517

## CHAPTER XXIII

THE END, *pp.* 513-43

Hertford and Lisle	<i>p.</i> 519	Henry's personal action against	<i>p.</i> 532
Wriothesley, Gardiner, and Paget	520	Surrey	
Hertford's position improving	521	Surrey's trial, Jan. 1547	533
Threat to episcopal property	522	Parliament	534
Arrests of Surrey and Norfolk	523	Henry's will, Dec. 1546	535
Strength of Hertford and Lisle	524	Executors	536
Surrey's earlier career	525	Significance of the will	537
Norfolk's difficulties	526	Council	538
The duchess of Richmond	527	The Privy Council	539
Norfolk examined	528	Hertford	540
Surrey's heraldic indiscretions	529	Parliament, Jan. 1547	541
And indiscretions about the next reign	530	Death of Henry VIII, 28 Jan. 1547	542
And dealings with foreigners	531	Announced, 31 Jan. 1547	543

LIST OF AUTHORITIES, *pp.* 544-50INDEX, *pp.* 551-564

## CHAPTER I

### BEGINNING OF THE REIGN, AND RISE OF WOLSEY

The Rose both White and Rede  
In one Rose now dothe grow;  
Thus thorow every stede<sup>1</sup>  
Thereof the fame doth blow:  
Grace the seed did sow:  
England, now gaddir flowris,  
Exclude now all dolours.

SO ran the first verse of the poem in which Henry VIII was welcomed to the throne by his old tutor. Skelton continued with joyful prophecies, not all of which came quite true: he concluded with one which will hardly be disputed (though even he did not mean it to be quite so prophetic as it appears to modern eyes):

Upon vs he doth reigne,  
That makith our hartis glad,  
As *king most soueraine*  
*That ever England had.* . . .<sup>2</sup>

Lord Herbert of Cherbury, writing a century and a quarter later, after beginning his *Life and Raigne of King Henry the eighth* with a statement of the difficulty of "that Princes History, of whom no one thing may constantly be affirmed", was rash enough three pages later to speak of him as "having more undoubted right to the Crown by the union of the White Rose and the Red in his person than *any* King ever delivered unto us by warrantable History". The generality of this assertion may be deemed a little excessive: yet it is difficult to find many of his predecessors who came to the throne with so good a right and with so

<sup>1</sup> I.e. place. The poem is printed on pp. ix ff., vol. I, of A. Dyce's edition of Skelton's *Poetical Works*.

<sup>2</sup> My italics.

universal and natural an acceptance as Henry, and certainly he made in this respect a striking contrast with the last seven, even with the last nine, of the kings of England.

This strength of title was a principal factor in the reign, all the more because though it was so extremely remarkable yet it was not absolutely secure. Henry, for all the ease of his succession, for all that he was both white rose and red, knew nevertheless that the natural mode of revolution remained dynastic, that the possession of the crown was not yet quite beyond challenge, and still less the transmission of it.

Towards the end of Henry VII's reign<sup>1</sup> Sir Hugh Conway, treasurer at Calais, in conversation with the deputy and the master porter there, related how he had happened not long since, when the king was lying sick at Wanstead,<sup>2</sup> "to be amongst many great personages, the which fell in communication of the king's grace and of the world that should be after him if his grace happened to depart". Then he said that some of them spake of my lord of Buckingham, saying that he was a noble man and would be a royal ruler. Others there were that spake, he said, in like wise of your traitor Edmund de la Pole, but none of them, he said, that spake of my lord prince. The deputy and the porter were horrified, and hoped that Conway had reported the matter to the king: he had not, he said, and moreover "since my coming [here] I have showed the same to Sir Nicolas Vaux, lieutenant of Guisnes, and to Sir Anthony Browne, lieutenant of the castle here, and they answered me both this, that they had two good holds to resort unto, the which, they said, should be sure to make their peace, how soever the world turn". Then his listeners all said he was the more to blame to keep such matters from his highness, but he replied that once or twice before he had given similar information to the king, and had got nothing by it but grudging and suspicion. It is to be observed not only that the succession was still very far from being a matter of course, but also that the possession of material force (as a castle and garrison, for instance) was still the best of all assets in politics.

<sup>1</sup> The incident survives in the deposition of Flamank, the deputy's servant, which is not dated: it happened towards the end of September, probably in 1503. Flamank's deposition is on p. 231, vol. 1, of J. Gairdner's *L. and P. of Richard III and Henry VII.*

<sup>2</sup> This was probably in December 1499: cf. *L. and P. Henry VII*, 1, p. 239.

Whether or not Henry VIII remembered this story, he certainly remembered what lay behind it: so it was that in 1513 he executed Edmund de la Pole,<sup>1</sup> in 1521 Edward Stafford duke of Buckingham,<sup>2</sup> in 1538 Henry Pole<sup>3</sup> and Henry Courtenay,<sup>4</sup> and in 1541 Margaret countess of Salisbury.<sup>5</sup> The long period<sup>6</sup> covered by these executions shows sufficiently that it was not only the transmission, it was also the possession, of the crown which Henry was unable to treat as a matter of course.

Nevertheless, he was more nearly able to do so than any one for a very long time, and this is of primary importance for the history of his government, both as a source of strength to Henry and as a basis for the continuous and orderly development of institutions and of their relations to each other. Along with this advantage Henry had in the highest degree the personal advantages which a new king is seldom quite without. He was young, he liked being agreeable, he was handsome, intelligent, skilled alike in the athletic and in the intellectual exercises which were then fashionable, fond of the sort of display which then gave pleasure, pious and gay, apt for the admiration alike of plain Englishmen and of foreign ambassadors and scholars.

... our natural, young, lusty, and courageous prince and sovereign lord, King Harry the Eighth, entering into the flower of pleasant youth, had taken upon him the regal sceptre and the imperial diadem of this fertile and plentiful realm of England, which at that time flourished in all abundance of wealth and riches, whereof he was inestimably garnished and furnished, called then the golden world, such grace of plenty reigned then within this realm.

<sup>1</sup> Son of Edward IV's sister, Elizabeth.

<sup>2</sup> His father was descended from Edward III's son, Thomas of Woodstock: his mother was sister of Edward IV's queen, Elizabeth: he married a daughter of the earl of Northumberland, and his children married Ursula, daughter of Margaret countess of Salisbury, Thomas Howard duke of Norfolk, Ralph Neville earl of Westmorland, and George Neville lord Abergavenny. Cf. below, p. 308.

<sup>3</sup> Son of Margaret countess of Salisbury.

<sup>4</sup> Son of Edward V's sister, Katherine.

<sup>5</sup> Daughter of Edward IV's brother, George duke of Clarence.

<sup>6</sup> And remember the execution of Thos. Howard earl of Surrey in 1546, cf. p. 540 below.

So wrote George Cavendish<sup>1</sup> in 1557, and this praise of the time gone by owed less than usual to the enchantments of distance.<sup>2</sup> Henry was as acceptable to his kingdom as a lover to his mistress.

The new king was well supplied with more material advantages also: he inherited from his father a treasure in money and things easily convertible into money such as no other English king ever had, and other treasures hardly less unparalleled and if less easily negotiable for that very reason less likely to be evanescent—lands wider than ever and better exploited, a society in which both wealth and order were increased and increasing, and in which the rising class was naturally sympathetic with the monarchy, a church habitually complacent to royal utilisation of its revenues, a strict alliance with the richest of neighbouring powers<sup>3</sup> and a tradition, which did not prove difficult to maintain, of levying contributions on the next richest.<sup>4</sup> Besides all this, Henry was given by his first parliament tonnage and poundage for life and an annual grant of nearly £20,000 for his household.<sup>4</sup>

The young king was able, then, to gratify his people with the pageantry and magnificence which he and they loved, and for the first part of his reign, until a whole new set of circumstances had arisen, to manage his affairs with only very occasional recourse to subsidies voted by commons and convocation. The prosperity of his finances permitted him also to confer some positive benefits. Upon various pretexts his father had bound in recognisances, bonds to pay fines, such persons as by legal violence or subtilty could be brought within danger of the law. Now great numbers of these recognisances were cancelled on the ground that they had been made "without any cause reasonable or lawful, by the undue means of certain of the learned Council of our late father, contrary to the law, reason, and good conscience, to the manifest charge and peril of the soul of our late father, and also that the sums of money contained in the said recognisances cannot be levied without the evident peril of our late father's soul, which we would for no earthly riches see nor suffer".<sup>5</sup>

<sup>1</sup> *Life of Wolsey* (Dent's edn.), p. 12.

<sup>2</sup> Spain.

<sup>3</sup> France.

<sup>4</sup> J. S. Brewer, *Reign of Henry VIII*, I, p. 69.

<sup>5</sup> *L. and P. Henry VIII*, I, old edn. no. 1004, new 448 (4), quoted by Brewer, I, p. 69.

So the new reign was doing very well out of the old one, not only inheriting its accumulation of prestige, power, and wealth, but also acquiring merit by ostentatiously disapproving its misdeeds. This disapproval went beyond mere administrative reversal and extended to the punishment of the agents of extortion and to the legislative restriction of their opportunities for the future.

Empson and Dudley had been principally employed in the business of extortion, and they were now to be its scapegoats. Complaints poured in against them, and they were summoned before the council, which committed them to the Tower in spite of their plea that they had only obeyed the king's commands by putting into execution laws "in open Parliament decreed, . . . if this be a crime, why do you not first repeal your proper Acts?"<sup>1</sup>

If such arguments did not help Empson and Dudley, nevertheless the legal reality which they represented could not be neglected; perhaps the two officials had not always kept within the law in their financial expedients, but they were not proceeded against on that ground, and instead, "new and strange crimes were found and objected against them", as that "their intent was to seize upon the person of the new King, and so to assume the sole government, or . . . to destroy him. Of which crimes, how improbable soever", they "were found guilty by their Juries, and both condemned of Treason, and so remanded to the Tower".<sup>2</sup> These condemnations were not considered enough, and when parliament met in January 1510 Empson and Dudley were attainted.<sup>3</sup> For some time their execution was deferred, but finally in August the resentment of the feudal class was satisfied, and they were beheaded. At the same time statute made the fiscal abuse of penal laws in future less likely by limiting suits for penalties to the lapse of three years.<sup>4</sup>

<sup>1</sup> Herbert of Cherbury, *Henry VIII*, p. 5. Proper = own.

<sup>2</sup> Herbert, pp. 9, 10.

<sup>3</sup> Exactly how, it is difficult to guess, and probably the bill of attainder was never completed: on the third day before the end of the parliament a bill was read twice in the lords (*L.J.* 1, p. 7); next day a third time; next day *recepta . . . noviter formata*, approved and sent to the commons with at least one *provisio* and one *additio*: no act appears on the parliament roll. H. L. Gray, *Influence of the Commons on Early Legislation*, p. 16, n. 4, adds, reasonably, "The entries for the last two days are somewhat confused, indicating a rush of business".

<sup>4</sup> 1 H. VIII c. 4.



In the whole incident there was more than one trait which was to prove characteristic of the policy of Henry VIII. Henry was as fully determined as ever his father had been that ministers were to be absolutely responsible to him, rewarded or punished as they suited the royal will, but he was willing that unpopularity incurred by the royal administration should be neutralised, when it attained an inconvenient activity, by the king's abandonment of his agents to vengeance. Further, he disliked as much as any ruler the hampering of administration by legality or by abstract justice, but he was aware of the advantages to government of legal formalities and perhaps not capable of doubting that what he wanted could be got from the law: accordingly, Empson and Dudley were given indictments and trials as full of legality as they were void of justice, and their blood was put upon the head not only of the jury but also of the grand inquest of the nation, the whole body of England gathered in parliament. It is not necessary to believe that this policy was already consciously thought out and adopted, but it is useful to notice that from the very beginning it was being followed.

When Henry dropped, or rather threw to the wolves, two of his father's councillors, it was in the exercise of his own judgment and not at all by way of admission of any right anywhere but in himself to control the appointment or conduct of his advisers. His counsellors continued to be much the same as those employed by his father towards the end of his reign.<sup>1</sup> These were the councillors who might be consulted on important political questions, and of them perhaps not more than half a dozen really mattered. There were also other councillors,<sup>2</sup> as there had been under Henry VII, experts in administration or in law of one sort or another, but these were mere experts, servants rather than ministers. Some of the habitual councillors held no office, and some great officers were not of the council. None of them had any right to be consulted, nor all of them together a right to decide. They were left to manage business as long as it did not interest the king, but when there were big decisions to be taken he took them, with as much or as little help as he desired. From the first Henry made it clear how

<sup>1</sup> Cf. below, p. 7.

<sup>2</sup> Cf. A. F. Pollard, in *E.H.R.* xxxvii, pp. 343, 356, 357.

personal he meant his royalty to be, how little at the disposal of his councillors: in August 1509 Andrea Badoer reported to the Venetian government how an ambassador had come from France to confirm the peace, in response to Henry's letters asking Lewis to be his friend, and how Henry turned to his people and said "Who wrote this letter? I ask peace of the King of France, who daren't look at me, let alone make war!"<sup>1</sup> Yet clearly the king's councillors must always be important to foreign powers, and particularly when the king is new and young. At first ambassadors tended to treat the councillors as not less important than the king,<sup>2</sup> but they were pretty early aware that these councillors were not unanimous, that it was the king's acceptance which gave predominance to a party or effect to a programme.<sup>3</sup>

The councillors Henry began with were naturally those his father had left him,<sup>4</sup> his grandmother being, apparently, one of the most important at first,<sup>5</sup> and after the Aragon marriage Ferdinand perhaps the most influential, as he was the most persistent. There were wild rumours, as that Buckingham should be protector and Northumberland rule the north,<sup>6</sup> and those who hoped for great changes enjoyed telling office-holders that their tenure ended with the death of the grantor. But public business soon settled in the course in which Henry VII had set it, all the treaties made by him were confirmed, and his old councillor, Richard Fox bishop of Winchester and lord privy seal, remained the principal minister, with others of the old councillors, Warham,<sup>7</sup> Surrey,<sup>8</sup>

<sup>1</sup> *L. and P. I* (edn. 1920), no. 156, and p. xiv.

<sup>2</sup> *L. and P. I* (edn. 1920), nos. 383, 401, 421, 476, 734, 793, 942, 1475, 1484, 1916, 1999, 2208, 2209. In Jan. 1511 D'Arizolles negotiated with king and council, and they knew the usefulness of associating with themselves parliament, for as to Lewis XII's suggestion of a council called by the pope, "they will summon a meeting of the substantial men of this kingdom to deliberate upon the answer to be made", *L. and P. I* (edn. 1920), no. 674.

<sup>3</sup> Cf. nos. 476, 1201.

<sup>4</sup> For the first sixteen years Henry continued to use his father's effigy on his coins, so medieval was his government and so unpretentious his personality sometimes and in some respects. Edward VI was during part of his reign to issue coins actually in his father's name: G. C. Brooke, *English Coins*, pp. 175, 180, and cf. p. 72 below.

<sup>5</sup> A. F. Pollard, *Wolsey*, p. 13, and cf. *L. and P. I* (1920), no. 82 (2), her part in fixing coronation ceremonies and expenses.

<sup>6</sup> *L. and P. I* (edn. 1920), no. 157.

<sup>7</sup> Chancellor, and archbishop of Canterbury.

<sup>8</sup> Treasurer.

and Ruthal,<sup>1</sup> three or four more lords<sup>2</sup> and another bishop or two, seven or eight official knights<sup>3</sup> and half a dozen lawyers.<sup>4</sup>

That this continuity did not spring from any bureaucratic indispensability or aristocratic exigence was clearly and swiftly demonstrated by the career of Thomas Wolsey. Henry's father had made him his chaplain, and tried him out as a diplomat.<sup>5</sup> In November 1509 he became Henry's almoner.<sup>6</sup> Perhaps he owed his first steps in the new king's favour to Fox and Lovel, fortifying themselves against Surrey and Shrewsbury.<sup>7</sup> By the spring of 1511 a word from Wolsey was enough to short-circuit the whole official machinery of administration, so that the chancellor gave effect, without any intervention of secretary or privy seal or master of the rolls, to a signed bill handed to him by Wolsey with an assertion that the king wished it specially expedited.<sup>8</sup> By the autumn of that year he was clearly a politician important in his own right and a very influential councillor: he could, indeed, still, 30 Sept. 1511, write to Fox with a formal submission ("Your lordship, I trust, is nothing miscontent with that I presumed to break your instructions"), but with a just confidence in the importance of his own opinions on matters of high politics—the papal election and English influence on it,<sup>9</sup> the mistakes of Ruthal and Herbert,<sup>10</sup> Surrey's lapse from favour, and how with a little pushing it might be made permanent.<sup>11</sup> By the end of 1511 Wolsey had been taken into council<sup>12</sup> and was influential enough to

<sup>1</sup> Secretary, and bishop of Durham.

<sup>2</sup> E.g. Shrewsbury and Herbert.

<sup>3</sup> E.g. Poynings and Lovel.

<sup>4</sup> Cf. A. F. Pollard, *Wolsey*, p. 11; *Henry VIII*, pp. 47 ff.; Brewer, I, p. 53.

<sup>5</sup> Wm. Busch, *England under the Tudors*, I, pp. 225–6, 236–7, 381–2.

<sup>6</sup> T. Rymer, *Foedera*, XIII, p. 267.

<sup>7</sup> Cf. *D.N.B.* XXI, p. 797; Herbert, p. 32; G. Cavendish, *Life of Wolsey* (Dent's edn.), p. 10: Polydore Vergil is the source, cf. A. F. Pollard, *Wolsey*, p. 14.

<sup>8</sup> *L. and P.* I (edn. 1920), 784 (44), referred to in *Wolsey*, p. 15 by A. F. Pollard, who reports R. H. Brodie, "I cannot recall any other instance of such a note on a warrant of Henry VIII's time". Cf. p. 282, n. 12 below.

<sup>9</sup> Wolsey was telling Henry it was important the new pope should be under obligation to him.

<sup>10</sup> Chamberlain, an illegitimate sprig of the Beaufort stock, later earl of Worcester.

<sup>11</sup> *L. and P.* I (edn. 1920), no. 880: cf. 1356, 26 Sept. 1512.

<sup>12</sup> In Jan. 1512 he was one of the seven who signed the dinner costs of the lords and others of the king's council since 11 Nov. 1511: *L. and P.* I (edn. 1920), no. 1247.

be reputed the principal author of the French war,<sup>1</sup> and in the following year (and the year after that, which brought the victories of Théroutanne and Flodden) he was certainly the principal manager of it.<sup>2</sup> Wolsey's eminence had destroyed any chance that Henry's councillors might be compelled or enabled by the necessity of action and Henry's inexperience to take on a corporate and organic unity, under the management, for instance, of Fox. And indeed, the orders of the council, "pretty frequent at the commencement of the reign", tended to "diminish in number in proportion as events became important".<sup>3</sup>

It was in 1511 that Wolsey began to be a figure of first-rate political importance, and by 1512 he was the chief man in England after the king. From then can be dated with certainty the king's effective control of all policy. A boy of eighteen, as Henry was at his accession, and more than normally fond of tennis and shooting, dancing and feasting (besides music and theology), could not have much taste or capacity for public business: it is just for this reason that the rise of Wolsey marks so clearly the completeness with which the control of policy and administration was in royal hands. For the truth of this proposition it does not matter whether the thinking mind in what may be called the Wolsey period was Wolsey's or Henry's. In either case it was the royal choice which raised the minister to power and which kept him there: the minister was well aware of this, and knew also that he was chosen for his personal and not for any official or feudal or factious qualifications, that he had none of that strength of indispensability which earlier and later ministers have had because they brought to the service of the crown ecclesiastical or territorial or parliamentary resources which the crown could neither do without nor secure but by their mediation: Wolsey was more powerful than Dunstan or the duke of Newcastle, than the earl of Warwick or Sir Robert Cecil, more powerful against all the world except the king, because he had all the

<sup>1</sup> Brewer, I, p. 18, referring to *L. and P.* I, nos. 3356, 3451 (new edn. 1327, 1422): n.b. decisions taken by the council with the English army in Spain. It was on 13 Nov. 1511 that Henry joined the Holy League.

<sup>2</sup> Cf. e.g. A. F. Pollard, *Wolsey*, p. 18 and *Henry VIII*, pp. 56-61, and references to *L. and P.* At the end of 1511 Badoer had thought all the council except two suborned by France, *L. and P.* I (edn. 1920), no. 998.

<sup>3</sup> Brewer, I, p. 53.

king's favour: but all his power came from that one source. It was the king's favour, however obtained, that mattered; it was essential and it was by itself sufficient. It did not need even to be solidified into office in order to confer political power. Wolsey might be only the king's almoner, but because it was known that he had the king's confidence he had authority enough to design, create, and manage a great armament. Since 1512 he had been the most important subject in England, by 1514 he was the most conspicuous as well. By that time also Henry was out of humour with his allies and out of love with war: diplomacy had become the chief business of the reign, a business in which Wolsey was already displaying unrivalled talents. In 1513 he had become bishop of Tournay, early in 1514 bishop of Lincoln and later that year archbishop of York. By then Henry was begging Leo X to make him a cardinal, "with all the honours held by" Bainbridge;<sup>1</sup> "such are his merits", wrote the king, "that I esteem him above my dearest friends, and can do nothing of importance without him".<sup>2</sup> After a good deal of difficulty Henry was successful, and in September 1515 Wolsey became cardinal of St Cecilia: in December he was made lord chancellor.<sup>3</sup>

His self-confidence easily kept pace with his elevation: "the Pope", he told his vicar-general at Tournay, where he was troubled by a previously elected French claimant, "would not offend me for one thousand such as the elect is".<sup>4</sup> Not only did he seem to the Venetian ambassador in London "to have the management of the whole of this kingdom"<sup>5</sup> and "to have been the author of the peace" with France, but he himself felt sure enough of his own position, and of Henry's attitude, to tell Giustinian that as he was "the author of the peace",

<sup>1</sup> Recently deceased archbishop of York.

<sup>2</sup> *L. and P.* I (edn. 1920), no. 3140: Wolsey was already angling at Rome for a cardinalate (I, no. 2932, 21 May 1514) and for a legateship (*Wolsey*, p. 23). No. 2942, he became Chancellor of Cambridge University.

<sup>3</sup> *Cf. Inst. Hist. Res. Bul.* VII (A. F. Pollard), p. 88, Wolsey's appointment for life by letters patent (cf. *L. and P.* IV, no. 15, Jan. 1524, Wolsey's "legateship, with all faculties, for life, which was never heard of before"): p. 97, Henry may have known nothing of the patent, Wolsey's fall the end of any attempt at a "medieval" or "French" chancellorship.

<sup>4</sup> *L. and P.* I, no. 5698 old edn., 3546 new.

<sup>5</sup> Rawdon Brown, *Four Years at the Court of Henry VIII*, I, p. 110 (6 July 1515).

so would he exert himself to confirm and maintain it.<sup>1</sup> He did not even need to be modest, or careful of royal susceptibility to an excessive, or an over-conspicuous, importance. So long as a minister of the utmost ability, in complete accord with the king, put at the disposal of his majesty's government unsurpassed energies and unprecedented ecclesiastical resources, and so long as parliament had neither the wish nor the financial indispensability to manage government, so long *cabinets* and *ministries* would be unnecessary and impracticable, and even *privy council* a rare phrase, not entitled to capital letters and still less to the definite article. Indeed, contemporaries, especially English ones, usually addressed not even the council (or counsel<sup>2</sup>) but the lords of the council.<sup>3</sup>

<sup>1</sup> R. Brown, I, p. 116 (16 July 1515): he again said he was the author of the peace according to Giustinian's dispatch of 2 Jan. 1516, R. Brown, I, p. 158.

<sup>2</sup> Usually *counsaill* or *counsayl* or something similar.

<sup>3</sup> *L. and P. passim.*

## CHAPTER II

### COUNCIL

In the first few years of the reign,<sup>1</sup> all the references I have come across to the *privy council* were made by foreigners. When an Englishman on diplomatic service abroad wrote to Wolsey sending a second letter under separate cover, "that the King and such other as his Grace shall think good may perceive the contents of the same or<sup>2</sup> it be showed unto the whole Council",<sup>3</sup> he did not suppose that that or any other letter must be shown to *The Council*, noun of assemblage for all the king's councillors, but only that it might be convenient to show it to such team of councillors as the king was then in the habit of consulting about that sort of business. Nor, when Wolsey was described on a grant as *intimus Conciliarius*,<sup>4</sup> was the clerk revealing the existence of an Intimate Council, even more recondite than the Privy one.

Yet there were factors which must tend to stiffen and fix conciliar composition and function, and these factors must become ever so much more effective when, half a lifetime and almost a whole reign ahead, there should no longer be some one man who should be able, and who would be trusted, to manage all the king's business. Of these factors those that most demand consideration are, first, the habit of directly conciliar action and, secondly, the proliferation of conciliar potentiality and the consequent need for an intelligible inter-relation.

<sup>1</sup> *L. and P.* I (1920), nos. 38, 568, 1484, 1634, years 1509-13: A. F. Pollard (*E.H.R.* xxxvii, p. 341) says that "only about half a dozen instances of the use of this phrase can be collected from as many volumes of Nicolas's proceedings", and specifies III, p. 322 (15 Apr. 1429, the cardinal of York explained to the magnum consilium that one reason for its summons was certain letters addressed to the *privatum consilium*); IV, pp. 103-5 (28 Nov. 1431); V, p. 72 (14 Nov. 1437, annual remuneration to five "lords (though one of them was only a knight) of his prive counsaill"), and Jo. Stevenson, *L. and P. Henry VI* (Rolls Series), II, p. 442 (1440). *L. and P.* (1920), I, no. 2587 (3), speaks of the king confirming a patent with the advice of his "Great Council", as the editor prints it.

<sup>2</sup> Before.

<sup>3</sup> *L. and P.* I (edn. 1920), no. 2650.

<sup>4</sup> *L. and P.* I (1920), no. 3499, item 40, translation to York: and cf. item 8.

"Whatever was its personnel," wrote Professor Tout<sup>1</sup> of the medieval council, "whatever the advice it gave, and whether that advice were taken or not, the executive measures required to carry it out were, before Tudor times at least, seldom the direct act of the council. It needed a writ of chancery, of privy seal, of the exchequer, to execute effectively the conciliar act." Without such authentication it would not have been an act: but now, though the council often enough acted by moving writs and seals,<sup>2</sup> it very often acted otherwise; so bent to do the royal will were municipal, county, military administrators, and so quick to recognise it over the signatures of councillors known to be *the* councillors; and so thoroughly royal now was finance, that right arm of administration.<sup>3</sup>

The council arranged for the arrest of a Scotsman in the Downs,<sup>4</sup> it instructed the treasurer of the army to meet certain naval expenses,<sup>5</sup> authorised alteration of records,<sup>6</sup> arranged and paid for the custody of prisoners, gave money and instructions to military commanders,<sup>7</sup> saw to the local assessment and the central collection of royal loans.<sup>8</sup> The

<sup>1</sup> T. F. Tout, *Chapters in Medieval Administrative History*, I, p. 11; cf. II, p. 147 and III, pp. 466, 467 (1390, John Profit, the first clerk of the council, which was by that time an administrative body, but its decisions operative only when embodied in writs of chancery or privy seal: much judicial business being done in chancery, and in the office of the privy seal: the latter to develop into the court of requests, v, p. 63). Cf. also J. F. Baldwin, *The King's Council*, p. 385.

<sup>2</sup> In Mary's reign it was to get a seal of its own: cf. L. W. Labaree and R. E. Moody in *E.H.R.* XLIII, pp. 190 ff.

<sup>3</sup> Cf. *Henry VII*, pp. 26, 27.

<sup>4</sup> *L. and P.* I (1920), no. 855, Aug. 1511.

<sup>5</sup> I (1920), no. 2304 (5), 26 Sept. 1513: and military, and civil, expenses cf. nos. 1459, 1864, 2135, 2326, 2349, 2305 (III), 2364, 2576.

<sup>6</sup> I, new no. 2617 (18), 19 Jan. 1514.

<sup>7</sup> I, new no. 716: this was signed by the king as well as councillors: cf. also no. 602, municipal election at Reading; no. 2974, the officers at Calais objecting to the council's prohibition of sorties.

<sup>8</sup> III, nos. 3683 ("The names of the shires returned before the most reverend father, etc.; into the Sterr Chambers of the first views and musters") and 3687 ("An abbreviate" of the books of views and musters brought into the Star Chamber), A.D. 1523: assessment (at any rate of the actual commissioners) was ordered under the great seal, and payment was to be made to the king's chamber: but it was "your grace of York and other of the King's Counsell at Westminster" to whom these acts were to be certified, i.e. they were the ultimate administrative authority, P. S. Allen, *Letters of Richard Fox*, p. 131: there is a summary in *L. and P.* III, no. 3491.



last it could do with a sufficient and recognisable formality and fixity because it did it in a fixed and solemn place, the Star Chamber, and there too it could hear and settle, or remit to others for settlement, the matter brought by J. Gaymer against his mother<sup>1</sup> or the quarrels between the marquess of Dorset, the lord Hastings, and Sir Richard Sacheverell,<sup>2</sup> or it could deal with sedition or unlawful retainer or assembly,<sup>3</sup> or it could try the coins produced by the Mint or the measures used by the vintners.<sup>4</sup> It took a large and increasing interest in the regulation of trade, especially trade in foodstuffs. Statutes were enforced or dispensed with, municipal efforts to deal with distress assisted and regulated,<sup>5</sup> country gentry commissioned to measure corn supplies and get them to market, and resultant cases decided.<sup>6</sup> Also, there was a fixity of place, and a fixity of composition, about the conciliar function of hearing poor men's causes:<sup>7</sup> and clearly both sorts of fixity were inseparable from council of the north, of Berwick, of Wales, at Calais, Boulogne, and so on. These considerations did not apply to councillors acting in private with or near the king, the head of government, or acting for him at the seat of government, London: but what did tend towards a fixation, even of these least finite of conciliar manifestations, was their coexistence. When the king was far from London, especially when he was out of England, there must be two bodies of intimate councillors with ultimate responsibility, and they must have a certain definiteness at least to each other: this duality of privy counselling was one factor in the formation of a Privy Council.<sup>8</sup>

<sup>1</sup> The chancellor was generally in the chair, and in this case he wrote to four Cornish gentlemen to make a friendly end: *L. and P.* I (1920), no. 514, 26 June 1510.

<sup>2</sup> II, no. 2018, 8 June 1516.

<sup>3</sup> II, nos. 2018, 2733, 4676, App. 60, A.D. 1516-18.

<sup>4</sup> I (1920), no. 2781 (ii) and II, no. 3972.

<sup>5</sup> In London, e.g., where in 1520 the city companies were first rated for the purpose of regulating corn supply: cf. E. M. Leonard, *Early History of English Poor Relief*, p. 23.

<sup>6</sup> I. S. Leadam, *Select Cases in Star Chamber*, II, pp. xxi ff.

<sup>7</sup> *L. and P.* III, no. 571, autumn 1519, abbot of Westminster and seven others appointed to sit in the White Hall and hear poor men's causes depending in the Star Chamber: Wolsey's pre-eminence itself tended to produce fixity of composition, because a king may vary his councillors with every minute and every whim, but a first minister can hardly allow himself such freedom.

<sup>8</sup> Cf. *Henry VII*, p. 34.

In June 1513 the lord chancellor and others of the council<sup>1</sup> were appointed, for the time of the king's absence in France,<sup>2</sup> to assist the government of the regent Catharine. The fact that Henry always had a wife at his disposal, so that if he could not be in two places at once<sup>3</sup> at least he could remove his person beyond seas and still leave his better half at Westminster, this was one of the facts which reduced the fixative tendency of the split in the king's private counselling. But that tendency was reinforced when, for instance, Henry embarked for England again,<sup>4</sup> "leaving the chief of his Council to provide for the government of the borders", and also by his practice of referring foreign negotiators to his council,<sup>5</sup> and by his occasional expedient of sending as many as half a dozen councillors on a foreign embassy.<sup>6</sup>

One factor which tended to make council Privy, and to give it capital letters and the definite article, was the abstention or exclusion of those who were out of sympathy with the accepted policy, the policy of Wolsey. "Here is a great snarling among divers of them", wrote Thomas Allen on 31 May 1516<sup>7</sup> to the earl of Shrewsbury, "insomuch that my lord Cardinal said to Sir Henry Marney that the same Sir Henry had done more displeasure unto the king's grace, by reason of his cruelty against the great estates of the realm, than any man living. My lord, the saying is, such as be head officers of the King's household shall give attendance, and be nigh the King daily, here be so many things out of order". The cardinal and Sir William Compton, Allen continued, were marvellous great. The lord marquis, the earl of Surrey, and the lord Abergavenny were put out of the council chamber "within these few days, whatsoever that did mean". The same writer alludes

<sup>1</sup> Apparently Surrey, Lovel, and Englefield, who on July 4 ordered that, the king having crossed the channel, the *teste* on letters patent should be changed from *me ipso* to *Katerina Anglie Regina ac generali Rectrice: L. and P.* 1, no. 2065.

<sup>2</sup> According to the Venetian ambassador, the council had decided that Henry might go in person against France, I (1920), no. 1591, 23 Jan. 1513.

<sup>3</sup> Cf. *Henry VII*, p. 34.

<sup>4</sup> 21 Oct. 1513, *L. and P.* 1 (1920), no. 2391, p. 1061, the quotation is from Brewer's abbreviated translation of the diary of John Taylor clerk of the parliaments. For Taylor (Taillour, Tailer), cf. below, pp. 51, 57, 115.

<sup>5</sup> I (1920), no. 3018, June 1514.

<sup>6</sup> I (1920), no. 3294, 23 Sept. 1514.

<sup>7</sup> II, no. 1959.

a little later to the failure of a diplomatic project, "wherein few were of counsel":<sup>1</sup> and Giustinian at about the same time<sup>2</sup> reported that Warham and Fox and Lovel had "withdrawn themselves", Wolsey had become chancellor and Ruthal privy seal, and "the whole direction of affairs rests, to the dissatisfaction of everybody, with the right reverend Cardinal, the bishop of Durham, and the lord Treasurer".<sup>3</sup> Wolsey himself told the English agent at Rome<sup>4</sup> that the kingdom was united and quiet as never before, "*tanti enim justitiam et aequitatem facio, absit jactantiae crimen*; and were I to offer to resign I am sure neither the king nor his nobles would permit it";<sup>5</sup> though we need not be convinced about the nobles.

Wolsey's justice and equity were done largely by his strengthening and driving of conciliar judicature at fixed seats—Star Chamber, White Hall, and the like: and the mass and importance of diplomatic work, and the king's requirement when far from London<sup>6</sup> of private and authoritative counsel at the same time as he required that there should be the same thing in London, kept alive the habit of seeing two councils at once, two councils which were councils and not just delegations of council or detached parts acting as the whole within separate departments. And so the council—the council that directed and executed policy, not merely administered however grandly or judged however largely—was coming to be spoken of as the Council with the King wherever he might be, and the council in London, with membership shifting and interchanging and every decision subject to any whim of Henry's, but still with a degree, and a rising degree, of

<sup>1</sup> *L. and P.* II, no. 2018, 8 June 1516.

<sup>2</sup> 18 Sept. 1516: II, no. 4438, Giustinian told the doge that More, newly made counsellor, said that Wolsey transacted all business with the French ambassador and then called the counsellors, the king himself scarce knowing what was toward: but of course (a) More was newly made, (b) he did not want to be pumped by the Venetian ambassador.

<sup>3</sup> Wolsey, Ruthal, Norfolk.

<sup>4</sup> De Gligis, bishop of Worcester.

<sup>5</sup> II, no. 3973, p. 1234. Most of these half-dozen references are in Brewer, I, pp. 257 ff. For the necessary discounting of Wolsey's boasts about law and order, cf. A. F. Pollard, *Wolsey*, p. 74.

<sup>6</sup> Especially to avoid contagion (cf. e.g. II, no. 4326, 18 July 1518), and when he went to France for the second time in 1520, for the Field of the Cloth of Gold.

corporateness and fixity and officiality,<sup>1</sup> as the Council in the Star Chamber.

There never had been a time when there were not secret meetings of the king's council, or when the king had not required counsel wherever he went, or when every important man, especially if he were on detached service for the king, had not had his council: and for generations there had been conciliar meetings, public and private, in the block of government office buildings called the Star Chamber.<sup>2</sup> These things were not new, but what does demand study in relation to the circumstances of Henry's reign is the combination and intensification of these things, and their institutive and morphogenetic effect: particularly that effect in producing the Privy Council, and the modification and suspending of that effect by the careers of Wolsey and Cromwell.

There seems no reason to doubt Fox's unfeigned joy at getting away from high politics and down to his episcopal duties at Winchester,<sup>3</sup> or his sincere belief that in England as it was high politics had best be entrusted to Wolsey, "perceiving better straighter and speedier ways of justice, and more diligence and labour for the king's rights, duties and profits, to be in you than ever I see in times past in any other". He gave Wolsey very good advice, to husband his energies, and not to work after six in the evening, and especially "when the term<sup>4</sup> is done, keep the Counsell with the King's grace wheresoever he be".

This was indeed, as Fox said, *docere Minervam*: Wolsey knew, none better, that the straitest judicature and the most diligent administration were not enough. He, in London, could arrange for Knight and More to go over and redress grievances at Calais, for the garrison of Tournay

<sup>1</sup> Cf. *Henry VII*, pp. 32-34, 39-41, 44-50, 64, 145, 150, and references to Cora Scofield, *Star Chamber*, p. 28 for one remitting business to the other.

<sup>2</sup> In August 1517 it (presumably the main room) was lengthened and improved, and in October a new house was built adjoining it: *L. and P.* II, p. 1476 and no. 3741. In 1500 comes its first mention by name in proceedings, in the *Select Cases in Star Chamber* printed by Leadam (p. lxix), in 1504 it is first named in a statute (19 H. VIII c. 18, vested rights threatened by that statute to be proved and registered before the lords of the king's honourable council in the star chamber).

<sup>3</sup> Cf. his letter, II, no. 1814: the heaviest part of them was dealing with other men's iniquities.

<sup>4</sup> The law term, and consequently the public sittings in chancery, and star chamber.

to be settled, and for the whole business of government to be carried on, and could tell Henry<sup>1</sup> that his realm

was never in such peace nor tranquillity; for all this summer I have had neither of riot, felony nor forcible entry, but that your laws be in every place indifferently administered without leaning of any manner. Albeit there hath lately been a fray betwixt Pygot your serjeant and Sir Andrew Windsor's servants, for the seisin of a ward whereto they both pretend titles; in the which one man was slain. I trust the next term to learn them the law of the Star Chamber, that they shall ware how from henceforth they redress their matter with their hands. They be both learned in the temporal law, and I doubt not good example shall ensue to see them learn the new law of the Star Chamber.<sup>2</sup>

But Wolsey knew, without any need of Fox's admonition, that these services, high as he rightly ranked them, were no guarantee of power or even of safety.<sup>3</sup> It was nearness to Henry that mattered, and the council attendant upon him was the highest political sphere. The next time a more than usually definite splitting of the council was necessary, when Henry crossed the Channel in 1520, Wolsey was among those who went with the king, leaving a specially appointed dozen<sup>4</sup> in London to rejoice at Henry's good crossing, look after the princess, entertain foreign envoys, give attendance constantly in council, and order causes according to the laws.<sup>5</sup> On this occasion the council attendant accompanied the king more for dignity than for effect, it was there to cut a figure on the Field of the Cloth of Gold: accordingly, it included half a dozen bishops, two dukes and a marquis, seven earls, fifteen lords, with a strong contingent of abbots and knights and doctors of law and divinity.<sup>6</sup> Council was, indeed, so much a royal and personal affair that the reign's one great attempt at fixing it was part of an

<sup>1</sup> With substantial truth, though there are reservations to be made, for which see A. F. Pollard, *Wolsey*, p. 72.

<sup>2</sup> *L. and P.* II, App. no. 38, p. 1539, probably Aug. 1517. The *new* probably means *new to them*, perhaps with a secondary implication of *renewed by my administration*. Note that self-help still needed discouraging even among eminent lawyers.

<sup>3</sup> The story of his fall will show how conscious he, and his enemies, were of the importance of nearness to the king.

<sup>4</sup> Including Norfolk, Fox, and Lovel.

<sup>5</sup> *L. and P.* III, nos. 873, 895, 896, June and July 1520.

<sup>6</sup> *L. and P.* III, pt. 1, no. 703.

attempt to tighten up the organisation of the royal household,<sup>1</sup> an attempt which was made in January 1526, and which historians call the Eltham Ordinances.<sup>2</sup>

"And to the intent that as well matters of justice and complaints . . . as also other great occurrences concerning his own particular affairs may be the better ordered, and with his Grace more ripely debated", it was ordained that twenty named persons should give their attendance. They ranged from the chancellor, treasurer, privy seal, steward of the household, and marshal, to the vice-chamberlain, captain of the guard, and Dr Wolman: and since many of them, especially the first four, must attend the law terms, and do their offices, the nine more disposable among them (and Dr Wolman for ordering of poor men's complaints and causes) were to give "continual attendance in the causes of the said counsell, unto what place soever his highness shall resort"; and of these, four<sup>3</sup> were specifically bound to be always present, or "two of them at the least . . ., being every day in the forenoon by ten . . . and at afternoon by two . . . in the king's dining chamber", or other place appointed for the council chamber; there to be in readiness, not only in case the king's pleasure shall be to commune or confer with them upon any cause or matter, but also for hearing and direction of poor men's complaints on matters of justice; "which direction well observed, the King's highness shall always be well furnished of an honourable presence of counsellors about his Grace, as to his high honour doth appertain".<sup>4</sup>

<sup>1</sup> As part of an economy campaign, cf. Dietz, *English Government Finance*, p. 100.

<sup>2</sup> Printed by the Society of Antiquaries in *Ordinances for the Household, Edward III to William and Mary* (1790): Harleian MSS. 610 and 642, fol. 74, both seem quite a hundred years later, probably a hundred and fifty. Summarised in *L. and P.* IV, no. 1939. Tanner, pp. 207, 220, prints extracts. A. F. Pollard, *E.H.R.* XXXVII, p. 358, says Harleian 642 is one of D'Ewes's collections, and that the best MS. is Bodleian Laud 597. Hall's reference (II, p. 49) runs: "After this the Cardinal took upon him, as the king's chief counsailer, to see a reformation in the order of the king's household, wherein he made certain ordinances. He also made all new ordinances in the house of the Duke of Richmond, which was then newly begun: Also at that time he ordained a counsail, and stablished another household, for the lady Mary . . .".

<sup>3</sup> Bishop of Bath, secretary (Ruthal), chancellor of the duchy (More), and dean of the chapel.

<sup>4</sup> For an attempt t.r. Henry VII to fix a sort of rota of councillors with the king and councillors in London, cf. *Henry VII*, p. 31.

The book of these ordinances<sup>1</sup> was to be kept in the counting-house, "for the better information of the head officers of the chamber and household", and "his said councillors appointed to attend upon his Grace shall from time to time... send for the said book", and find and punish any negligence; "and if the default be in any of the said counsell, being head officers of the king's chamber or household, the residue of them shall make relation thereof to the king's highness... And it is ordained that the Lord Cardinal, Chancellor of England, with the residue of the King's counsell attending upon his person, shall, quarterly at the least, examine whether the said articles be put in due execution or not".

Professor Pollard<sup>2</sup> justly remarks that this "part of the ordinances is one of the most important documents in the history of the council" though "there is no evidence that this scheme was carried into effect". The difficulty, even impossibility, of carrying it into effect was indeed one of the most significant things about it: so long as Henry was absolutely free to control the existence, composition, and action of his confidential team of advisers, and so long as official prestige and personal influence were monopolised by Wolsey, and as even by him ministerial indispensability could not be claimed, so long there could not be all the corporate continuity and self-confidence necessary to the framing of a Privy Council. On the other hand, the ordinances marked full consciousness of the desirability of increasing the element of the definite in the king's council when it was most his, and therefore most itself, that is, when it was attending him wherever he might be. There was a very full consciousness also of the threefold classification of conciliar function, political, administrative, and judicial, though not yet in those terms. It was the third class, and the minor part of that, which was most reducible to rule, partly because Star Chamber<sup>3</sup> and White Hall had shown the way, partly because Dr Wolman could be thoroughly

<sup>1</sup> They included also a reduction of the guard, a strict regulation of those who were to have bouche (rations) of court, and a narrow limitation of the entree to the king's chamber.

<sup>2</sup> *E.H.R.* xxxvii, p. 359.

<sup>3</sup> Wages of £26. 13s. 4d. were now (*Ordinances in L. and P.* iv, pt. 1, no. 1939, p. 869) fixed for R. Eden, clerk of the Star Chamber.

trusted, and even the king's secretary and Thomas More and the dean of chapel could be on the whole expected, to stay where they were put. But how could Wolsey spend time and rouse opposition by driving the residue of the king's council to discipline its negligent members? and how could discrimination be made and penalties enforced? It is in the history of the Privy Council that the Ordinances were most significant but least effective.

The council cannot be left without some explanation of what was done during the first half of Henry VIII's reign by and to its other manifestations, or some of them—Star Chamber, White Hall, and the like.

Conciliar action in these forms was the very essence of Tudor government in the eyes of the mass of its subjects, and hardly less in the eyes of the Tudor kings. *Law and order* (and especially order) was the chief interest of the humble, and it was the king's chief interest too. It was by the council, its branches and limbs and offshoots, that these interests were interwoven, and that the wheels of central and local government were geared together.

The commission of the peace for Surrey, for instance, had twenty-nine names,<sup>1</sup> of which rather more than half belonged to royal councillors. Connection was maintained in the same way, if in smaller proportions, in other commissions.<sup>2</sup> The same device was even more obvious and effective when a special commission was appointed to deal with an emergency in a county or group of counties.<sup>3</sup> When there was a riot at Southampton, the king found among his councillors one who had very great personal authority there, and

a more propice or meet person than is Mr Sandis for the ordering of that matter could ye [Wolsey]<sup>4</sup> not have found. For being amongst them he is their mayor, bailiff and all the whole ruler of the town; and with the authority that he hath under the king's grace, the love and credit that he hath amongst the people when he is present, he may more

<sup>1</sup> *L. and P.* II, no. 4437, 17 Sept. 1518.

<sup>2</sup> III, no. 278, items 18, 27, 29, Lincs., Herts., Dorset.

<sup>3</sup> Cf. e.g. P. S. and H. M. Allen, *Letters of Richard Fox*, p. 100: and cf. p. 38 below and pp. 40, 41.

<sup>4</sup> To whom the bishop of Winchester is writing, 10 May 1517, Allen, p. 27: Fox said he was still thinking of matters of the king and his realm as much as if he were "daily attending upon you in the King's Council".



do with them than may do the Mayor and all officers that belongeth both to the town and to the port. [And] with right wise demonstration of the matter of London<sup>1</sup>. . . and with his indifference betwixt both parties, he hath left the whole town in a sure quietness, rest and peace.

I doubt not also he will shew you that the matter was not so grievous nor so heinous of itself. . . . The which I beseech your good lordship to consider in the punishment of the offenders brought up at this time; albeit they must have somewhat the grievouser punishment for the giving of fearful example for time to come. And though they make not the whole number of the bill delivered to Mr Sandis, there be as many as needeth, and some for fear be voided.

And if it shall please you, my lord, that the king by his strait letters command the Mayor and his brethren to find this riot by due inquisition, and after it be found to punish certain of the chief rioters not sent up at this time by imprisonment and fine, and to bind them by recognisance for their good bearing; this shall make a sure peace and restfulness, not only in that town but in all the whole shire and further.

And, my lord, I think that if fortune hereafter any commotion to be made in this shire, Wiltshire, Berkshire, or Somersetshire, it shall be by the means of weavers, fullers and shearmen and other journeymen artificers and servants for clothmakers. Wherefore, if there be proclamations sent and made in the said shires that clothiers shall have their liberty in buying of wool, and that the said artificers and journeymen be paid for their labours and works by the said clothiers in ready money and not in wares, according to the statutes in both cases provided, I doubt not it shall put them in great quietness and comfort, and avoid the occasions of all such commotions. . . .

So church and state, justice, mercy and policy, economics and politics, metropolis and province, all worked together, and their workings were kept together by Henry's councillors, this time Wolsey and Fox (who was councillor *emeritus*) and Sandis (who in this case was councillor in eyre, on special mission).

Such confusion of powers and immensity of jurisdiction might have tended to make of councillors an independent power, an oppression to the people and a menace to the throne, and there is no doubt that suitors placed much reliance upon their patronage. Yet a tyrannical autonomous self-interest was not the result, partly for political reasons

<sup>1</sup> Evil May Day: cf. p. 40 below.

already indicated,<sup>1</sup> partly because no sort of membership of council conferred immunity from prerogative judicature: it was the king's prerogative, not a privilege of peers or ministers. There was official optimism, no doubt, about the proclamation of general pardon<sup>2</sup> at the beginning of the reign, directing all the king's officers to deal justly notwithstanding any command to the contrary "by any of his Council whatsoever he be". Yet certainly a soldier of the Calais garrison thought it worth while to send his wife to complain before the council in London of his treatment by the deputy and council of Calais.<sup>3</sup> And certainly the bishop of Winchester,<sup>4</sup> when inquisition was found against him (unfairly, as he thought) "for enclosures of arable land contrary to the statute in that case provided", told the chancellor that if he should please "to deliver me of all this business and to assess the fine according to the said value and the statute, I shall be right well contented to pay it". Prelates, indeed, had no great tendency to maintain each other,<sup>5</sup> and even in so spiritual a matter as probate fees, the pope applauded Henry's action in getting Warham to withdraw from Rome a dispute between him and five of his suffragans and committing the examination of it to certain of his council:<sup>6</sup> it is true that the committee was ineffective,<sup>7</sup> and that Henry then took the matter into his own hands and imposed a compromise for three years; any doubt or difficulty arising, "the interpretation and construction thereof to be referred only to us and such of our counsaile as we hereto fore deputed":<sup>8</sup> the archbishop was bitter about his opponents,<sup>9</sup> and thought it would

<sup>1</sup> The easy supremacy of monarchy and the disunity of the council.

<sup>2</sup> *L. and P.* I, pt. I, no. II, item I: April 1509.

<sup>3</sup> See his letters in Allen, p. 112, 30 Oct. 1518: summarised in *L. and P.* II, no. 4540.

<sup>4</sup> I, pt. 2, no. 2643, Sir Rd. Wingfield to Wolsey, bishop-elect of Lincoln, 10 Feb. 1514.

<sup>5</sup> Cf. also Allen, pp. 146-50, Fox's letters (Nov. 1526-Jan. 1527) to Wolsey, who was detaining his chancellor: summarised *L. and P.* IV, nos. 3583, 3623, 3815. It is not clear whether Wolsey was acting in his legatine capacity or as chancellor.

<sup>6</sup> I, pt. I, no. 1642, summarising J. B. Sheppard (*Litterae Cantuarienses*), III, p. 416, Henry to Warham 23 Feb. 1513.

<sup>7</sup> But not quite, for Henry said that it was upon its report that he "made certain ordinances, directions and appointments", p. 429, cf. pp. 434, 438.

<sup>8</sup> One of Warham's objections to this was that the king and his counsell might be in the furthest part of his realm.

<sup>9</sup> Who wished (*L. and P.* I (1920), no. 2163, Aug. 1514) to bring him out of favour and make the matter appear to pertain to the king: see also no. 2098.

have been better in every way "to suffer us that be spiritual men, in spiritual causes, to have our matters determined before the Head of the spiritual court in Rome, rather than to charge your Grace's conscience", and besought him "to be as good and gracious to the Church of Christ and St Thomas as your noble progenitors have been". Henry, being in France, instructed Catharine to summon Warham before her "and three or four of the personages of our counsaile attending upon you",<sup>1</sup> but still the archbishop and chancellor sheltered himself behind his oath to maintain the rights of his church and behind "the devotion and love that his grace and his noble progenitors have borne to the holy Martyr St Thomas of Canterbury". The council's ordinance he could not resist, but his *salvo ordine meo* he would not give up. The incident is ominous of much, but the immediate point is that the king's councillors were as far as possible from being united in a conspiracy to protect each other from jurisdiction, and that neither Warham's greatness as metropolitan nor his greatness as chancellor put him beyond the reach of the king in council, or even of the queen in a very small bit of it.

It is the less surprising that the earl of Derby was amenable to conciliar jurisdiction. In January 1521, accusation having been made against him of riot and maintenance and other interferences with the administration of justice, he wrote to Wolsey asking not for any preferential treatment but for "determination in a cause in the Star Chamber betwixt himself and certain of his tenants".<sup>2</sup>

The canalisation of conciliar jurisdiction owed much to Wolsey's activity in superintending the regularity of the public service, the maintenance of order, and the protection of the small against the great. At the beginning of the reign the reaction from the methods of Empson and Dudley caused loss of revenue<sup>3</sup> especially from crown lands.<sup>4</sup>

<sup>1</sup> Sheppard, III, p. 435.

<sup>2</sup> According to the summary in *L. and P.* III, pt. 2, no. 1923. He died in May. There were complaints against him for riots, poaching, maintaining, procuring favourable juries.

<sup>3</sup> Cf. p. 5 above.

<sup>4</sup> Cf. A. F. Pollard, *Wolsey*, p. 10, referring to *L. and P.* II, pt. 1, no. 1795 (placed by Brewer under April 1516), roll of crown lands transferred, "whereby less comes to the coffers of Henry VIII in this his seventh year than in the twenty-fourth year of the late king".

In 1515 many royal grants were resumed by statute,<sup>1</sup> and another statute<sup>2</sup> endeavoured to tighten the accounting of the revenue. Great sums had been lent by the crown to noblemen and others who thought a loan from such a source almost as good as a gift.<sup>3</sup> In the eighth year of Henry VIII, wrote Hall, "by the Cardinal, were all men called to account that had the occupying of the king's money in the wars or elsewhere, not to every man's contentation, for some were found in arrerages, and some saved themselves by policy and bribery, and waxed rich, and some Innocents were punished".

Jurisdiction in the star chamber had been fortified by the act of 1487,<sup>4</sup> especially by the placing beyond challenge of its summonses and its interrogation on oath, and the act had not had the effect of limiting the star chamber to the composition or to the particular offences which it suggested. As to composition, indeed, on the judicial opinion of 1493<sup>5</sup> a separate court might have been established, but the jurisdiction exercised in the star chamber continued to be the jurisdiction of the council. If the opinion of 1493 was an attempt by the common lawyers to impair that jurisdiction, it failed, because by the beginning of Henry VIII's reign it was effective only so far that the justices attended star-chamber cases as assessors, but the judges there were such members of the council as were present, not merely the three great officers. On the other hand, if the council remained the old organ acting by its old rights, at the same time the development of its function was leading to a development of official nomenclature: by 1500 a bill was petitioning that a defendant might be ordered to appear "in the star chamber",

<sup>1</sup> 6 H. VIII c. 25.

<sup>2</sup> 7 H. VIII c. 7: cf. also *L. and P.* III, no. 576, Wolsey's memoranda for improving financial administration, 1519. In Oct. 1518 (II, no. 4547) Dacre, in the north, had been told by Wolsey that the king and his council were credibly informed that his title and interest were not properly looked after, nor justice adequately administered.

<sup>3</sup> Cf. Brewer, I, p. 261 and his reference to *L. and P.* II, pp. 1481-90, list of recognizances and obligations to the king 1509-18. *L. and P.* I(2), no. 3483, directions taken for payment of debts to the crown by yearly instalments: e.g. Michaelmas Term 1514, before Wolsey "and others of the King's Council at the Savoy".

<sup>4</sup> The "Star Chamber Act" (though not so called till after Henry VIII's time), 3 H. VII c. 1: cf. *Henry VII*, pp. 41-4, 47.

<sup>5</sup> Cf. *Henry VII*, pp. 39-49, especially 42-7, also 64 and 145.

and four years later statute spoke of "the lords of the King's honourable Council in the Star Chamber".<sup>1</sup> When Henry VIII's reign began, then, the *Star Chamber* was a well-established term<sup>2</sup> for the council in one of its aspects—acting publicly and, as a rule, judicially. But by no means always judicially: Hall's *Chronicle*<sup>3</sup> is peppered<sup>4</sup> with reports of occasions when the star chamber was used to declare policy and to direct administration—why the king was going to war, how well he had made peace, why he needed money, how legislation was to be enforced, what difficulties had arisen about the royal matrimony, the testing of coins and measures. *Judicially*, then, was not the characteristic of the star chamber; *publicly* was, though "characteristic" does not imply "essential". The inner room remained inner:<sup>5</sup> there a decree might be drafted by two or three, to be formally delivered by twelve or sixteen,<sup>6</sup> and there three or four might communicate to the archbishop charges against the queen not yet to be communicated to all the world.<sup>7</sup>

But what later ages have called The Star Chamber was a public, and mainly a judicative, thing, and it was much developed by Wolsey:<sup>8</sup>

<sup>1</sup> Cf. I. S. Leadam, *Star Chamber*, II, pp. xviii, xix, case transferred from Chancery to Star Chamber (1531), some bills specifying and some implying the Star Chamber, Browne v. Bussell (1517), "to appear before your highness in your Star Chamber" endorsed "Scilicet Coram domino Rege et consilio suo apud Westmonasterium". In general, no change of procedure distinguishes this reign from the last.

<sup>2</sup> 19 H. VII c. 18, quoted by I. S. Leadam, *Star Chamber*, I, p. lxix: my spelling: *ibid.* p. xiv, before 1500 the most usual forms of address to the king and council: after 1500 usually to the chancellor, sometimes only to the lords of the council, sometimes in the *Star Chamber* specified.

<sup>3</sup> I have generally used Charles Whibley's edition. For some account of the first edition (1548) and of the book's early bibliographical history, cf. *Inst. Hist. Res. Bul.* IX, p. 171, A. F. Pollard and X, p. 12, G. Pollard. Hall sat in the parliaments of 1529, 1539, 1540, 1542: was autumn reader at Gray's Inn in 1533, common serjeant in March of that year, under-sheriff of London, with the king's favour, in June 1535.

<sup>4</sup> E.g. II, pp. 105, 123, cf. below, pp. 71, 72; Herbert, p. 193, A. F. Pollard in *E.H.R.* xxxvii, p. 519.

<sup>5</sup> Cf. A. F. Pollard, *E.H.R.* xxxvii, p. 531.

<sup>6</sup> I. S. Leadam, *Star Chamber*, II, p. x, Nov. 1510.

<sup>7</sup> Burnet, I, p. 320, May 1536.

<sup>8</sup> Cf. Sir T. Smith (1565), *De Republica Anglorum* (ed. Alston), pp. 117, 118.

in 8 H. VIII<sup>1</sup>. . . he first appointed four days in the week to sit in the Star Chamber and two days only in the chancery: and afterwards in 10 H. 8 the lords appointed to sit in the Star Chamber on Wednesday and Friday for reformation of enormities in the king's courts: and afterwards, about 15 H. 8, there were six of the council appointed to sit in the Star Chamber to expedite the causes, which was to give rules and orders of proceedings.

Wolsey did more than improve star-chamber routine: at the same time<sup>2</sup> he was developing its power by vigorous exercise: noblemen and others were fined for retaining;<sup>3</sup> libel, slander, and forgery, perjury and contempt in other courts, were punished: and the occasional presence of the king himself gave an added prestige.

A part of Wolsey's development of conciliar jurisdiction was his establishment of "under-courts".<sup>4</sup> Of these "one<sup>5</sup> was kept in the white hall, the other before the king's almoner Dr Stokesley, a man that had more learning than discretion to be a judge. The third was kept in the lord treasurer's chamber beside the star chamber and the fourth at the rolls at afternoon". Hall, but then Hall was a common lawyer and hated the cardinal, goes on to say,<sup>6</sup> "These courts were greatly haunted for a time, but at the last the people perceived that much delay was used in these courts, and few matters ended, and when they were ended they bound no man by the law, then every man was weary of them, and resorted to the common law".

Hall cannot avoid praise, "for a truth he so punished perjury

<sup>1</sup> Wm. Hudson, "A Treatise on the Court of Star Chamber" in *Collectanea Juridica*, II, p. 219, referred to by A. F. Pollard, *E.H.R.* XXXVII, p. 532: who refers also to Rd. Fiddes, *Life of Cardinal Wolsey* (1724), p. 532, who reports that "during the time the Cardinal was taken up with the Administration of Publick Affairs, the King, at his Instance, was pleased to grant a Commission" (11 June 1529, cf. Rymer, XIV, p. 299; *L. and P.* IV, no. 5666) empowering the master of the rolls, chief baron, and eighteen others to hear causes in chancery: and he goes on to say that "it is highly probable, as hath been before observed on the Credit of other Historians, that the Cardinal, for the more easy and expeditious Dispatch of Business in Chancery, had formerly taken the same method".

<sup>2</sup> From 1516: cf. Pollard, *Wolsey*, pp. 76 ff.; I. S. Leadam, *Star Chamber*, I, pp. XIV, XXIX; II, pp. XXXIII, XXI-XXX, XLIV, CI-CXII; Holdsworth, III, p. 400; V, pp. 205 ff.

<sup>3</sup> Cf. *L. and P.* II, nos. 2018, 4675.

<sup>4</sup> Cf. p. 25 above.

<sup>5</sup> Hall (ed. Whibley), I, p. 152, 8 H. VIII, 1516-17.

<sup>6</sup> II, p. 152, my spelling.

with open punishment and open papers wearing that in his time it was less used. He punished also lords, knights, and men of all sorts for riots, bearing and maintenance in their countries, that the poor men lived quietly, so that no man durst bear for fear of imprisonment: but he himself and his servants, which were well punished therefor":<sup>1</sup> having started to blame, Hall went on in that way, "The poor perceived that he punished the rich, then they complained without number, and brought many an honest man to trouble and vexation. And when the Cardinal had perceived their untrue surmises and feigned complaints for the most part,<sup>2</sup> he then waxed weary of hearing their causes, and ordained by the King's commission divers under-courts to hear complaints by bill of poor people". What we find favourable in Hall is confirmed, and what unfavourable largely controverted, by the evidence of Sir Thomas More, who had the highest standards<sup>3</sup> and the best means of knowing the truth.

In 1518<sup>4</sup> Wolsey made his main attempt to provide for poor men's causes and another step was taken towards the institutionalising of conciliar jurisdiction, the embodying in a fixed court of its capacity and duty to assist the poor. Perhaps this represents a necessary reaction on Wolsey's part against his own tendency to centralise everything in his own hand: poor men's requests had traditionally been the special care of the lord privy seal. Now in 1518 "For the expedition of poor men's causes depending in the Star Chamber it is ordered by the most reverend father etc. Thomas Lord Cardinal Chancellor of England and the other lords of the king's most honourable council that these causes

<sup>1</sup> In the long run, Hall means, when Wolsey was ruined.

<sup>2</sup> Or when he was too busy with other things, e.g. his legateship.

<sup>3</sup> Brewer, I, p. 241: but like Hall, More may have thought Wolsey a little over-inclined to the side of the poor: cf. I. S. Leadam, *Star Chamber*, II, p. lxxiv. More certainly thought Wolsey's servants made improper profit from their master's chancellorship: cf. Roper's *Life of More* (ed. J. R. Lumby), p. xxiv, cf. Giustinian's report (R. Brown, II, p. 314) in Oct. 1519, "Has the reputation of being extremely just: he favours the people exceedingly, and especially the poor; hearing their suits and seeking to despatch them instantly; he also makes the lawyers plead gratis for all paupers".

<sup>4</sup> A. F. Pollard, *Wolsey*, p. 84, for the reasons for this date. And see *L. and P.* III, no. 571 (? Dec. 1519?), appointment of eight persons by Wolsey and the council to sit in the White Hall.

here mentioned shall be heard and determined by the king's councilours hereunder named. The which councilours have appointed to sit for the same in the White Hall here at Westminster",<sup>1</sup> being the bishop of Westminster, dean of St Paul's, and half a dozen others. This establishment proved permanent, and by 1529 had acquired the name "court of requests":<sup>2</sup> the connection with the lord privy seal was revived, and he stood to White Hall rather as the chancellor to Star Chamber. But it was still not a separated court, rather a delegation performing a separable function, doing part of the king's business which was appropriate to the council and did not require the weightiest councillors. "And whereas your Lordship<sup>3</sup> demanded of me what Commissions they had that sat there, and what Antiquity the Court was of, I humbly say that for Commissions I never heard or knew of any but from the Prince's mouth only. And for the Antiquity", that there was a clerk in Richard III's time, and that Henry VII "after a few years . . . seeing his court pestered with suitors, and sometimes out of due season . . . did appoint divers of his Counsell to keep terms in this White Hall".

Conciliar jurisdiction, then, if it was in some respects getting officialised, remained conciliar, fully within the royal control, and its modernisation had given it a new efficiency. Its main use, in administration and jurisdiction, was to maintain order, and its next use (if the two can be separated) to protect those who had no other protection.

With incorrupt judges, a procedure which in Henry VIII's time was comparatively cheap and effective, and freedom from any prejudice in favour of the letter of the law or local barriers or the interests of the well-to-do, the court of requests (and, for that matter, star chamber, council of the north, council in the marches) were highly popular and very useful. Their reinforcement and their activity were among the grievances which the nobility alleged against Wolsey.<sup>4</sup> They really

<sup>1</sup> I. S. Leadam, *Select Cases in the Court of Requests*, p. lxxxii: summarised in *L. and P.* III, no. 571. Fox when lord privy seal (1487-1516) had especially looked after this sort of business.

<sup>2</sup> I. S. Leadam, *Requests*, p. xiv.

<sup>3</sup> Burghley, who was asking evidence from Rd. Oseley, formerly clerk of the King and Queen's Counsell in their Court of White Hall, in 1573: Oseley was the pupil and successor of an uncle in the same employment.

<sup>4</sup> I. S. Leadam, *Requests*, pp. xv, xxi; cf. Skelton, II, p. 32; R. R. Reid, *King's Council in the North*, p. 110.



did do something considerable, as Henry VII's legislation had failed to do, for the protection of copyholders and others likely to suffer unjustly from the agrarian revolution,<sup>1</sup> and persons in that situation did in consequence look trustfully to government and courts, as may be well seen from the repeated litigation<sup>2</sup> between the villagers of Thingden and the lord of the manor, John Mulsho.

In this safeguarding of the under-dog jurisdiction was supplemented by administrative machinery, as in the 1517 inquisition into enclosures, when Wolsey proved a terror to landlords,<sup>3</sup> and as in the 1521 "Commission to the Justices of Peace, to restore all the Tillage ground that had been enclosed any time within fifty years last past, and to cause the houses anciently upon them to be re-edified".<sup>4</sup> So long as government was making such efforts the bulk of the population might feel, however obscurely, that though "it is hard to have it [i.e. enclosure] redressed by Parliament, because it pricketh them chiefly which be chosen to be burgesses",<sup>5</sup> yet that it was not time to say "we must needs fight it out, or else to be brought to the like slavery that the Frenchmen<sup>6</sup> are in", but rather to remember that "to revenge wrongs is, in a subject, to take and usurp the office of a king, and consequently, the office of God".<sup>7</sup> They would be the more inclined to this expectant attitude as they became aware that Henry VIII's government cared most of all to keep their landlords in order, and tried hard to keep, and to replace, feudal burdens on the backs of landlords.

On the other hand, it must not be thought that Henry VIII had 'a

<sup>1</sup> I. S. Leadam, *Requests*, pp. xvi, lv: cf. also his article in *E.H.R.* VIII, pp. 684, 686.

<sup>2</sup> 1494-1538, I. S. Leadam, *Star Chamber*, II, pp. xx, lix, lxxiv, 15-67.

<sup>3</sup> I. S. Leadam, *Star Chamber*, p. lxxiv: a second commission was appointed in 1518, and on July 12 Wolsey "issued a decree ordering the destruction of all enclosures that had been returned as contrary to the statutes", *Wolsey*, p. 85, where A. F. Pollard doubts the effectiveness of the decree (cf. Fox's letter, p. 23) and attributes to popularity-seeking Wolsey's later onslaughts on enclosure, 1526-9. Cf. I. S. Leadam, *T.R.H.S.* 1892-4 and Fisher, *Political History of England*, 1485-1547, pp. 220-3. More, for all *Utopia*, as chancellor inclined more to conventional authority and less to the under-dog than Wolsey had done, cf. I. S. Leadam, *Star Chamber*, II, p. lxxiv, referring to Thingden v. Mulsho.

<sup>4</sup> Herbert, p. 108.

<sup>5</sup> Hy. Brinklow, *Complaynt of Roderick Mors* (ed. J. M. Cowper), ? A.D. 1543, p. 12.

<sup>6</sup> Cf. below, p. 69.

<sup>7</sup> Rob. Crowley, *Way to Wealth* (ed. J. M. Cowper), A.D. 1550, pp. 133, 134.

realm from which all chance of disorder had vanished. The few score of professional guards whom his father had established Henry reinforced with fifty horseguards, each attended by three footmen;<sup>1</sup> but this reinforcement was not kept up for long, and for a reservoir of physical force the government had in general to rely upon the good-will of its subjects. In particular it had by the quantity of its revenue and patronage, and by its amalgamation of the York and Lancaster duchies and many other feudal units, a special chance of obtaining good-will enough, a better chance than it could have found in mere loyalty to the crown or gratitude to an improving administration. In Wales especially the Tudors had unprecedented advantages, and in 1510 William Smyth bishop of Lincoln,<sup>2</sup> Lord President of the Council in the Marches, and five associates were empowered as justices to punish rebellions, insurrections, murders, etc., and to array the fencible men, in North and South Wales and the six border counties. In 1512 a great step was taken when their commission was extended to the marcher lordships as well:<sup>3</sup> this extension was the safer as the king was now himself the greatest of the marcher lords, and it was made quite secure in 1521 by the destruction of the duke of Buckingham,<sup>4</sup> who was the last of the others.<sup>5</sup>

There still remained, however, as late as 1529 various separate

<sup>1</sup> Herbert, p. 9. Cf. below, p. 41; *Henry VII*, pp. 73, 74; and below, pp. 246, 367, 421, for a reminder of foreign mercenaries being used against Warbeck, and against Ket (1549).

<sup>2</sup> Note that all the lords presidents were bishops till the second year of Edward VI, when the duke of Northumberland became the first lay incumbent. In 1512 Smyth was succeeded by Geoffrey Blythe bishop of Coventry. But Protestant pamphleteers were not exempt from the accusation of social subversiveness. Cf. Stephen Gardiner, apropos of Mors, "The aldermen of London, that should be in reverence and punish offenders, they be noted for the lewdest men in the city. They note the King's Majesty not to see the truth. They condemn all the Parliament of ignorance, and say to the people they have commission of God so to say": *Letters*, p. 160, cf. also pp. 148, 164.

<sup>3</sup> A council of ten, with Smyth as president, had been appointed in 1504 but did not supersede the jurisdiction of the lords marcher which was the more difficult to restrain or co-operate with as its origin was military and its authority prescriptive, not any definite grant: cf. I. S. Leadam, *Star Chamber*, I, p. xciii.

<sup>4</sup> Cf. p. 48 below.

<sup>5</sup> C. A. J. Skeel, *The Council in the Marches*, pp. 32-4: she points out (p. 11) that during the Wars of the Roses both sides had drawn their military power very largely from Wales and the marches.

jurisdictions, and for that and other reasons an exorbitant amount of crime and disorder, which it was determined to reduce by sending Princess Mary to reside on the border, with a household, headed by John Voysey bishop of Exeter as president of the council, competent to bring into good government Wales and its marches. The object was stated to be that "the king's loving Subjects in the said Principality and Marches may be relieved from the necessity of repairing to the Council or to the King's ordinary Courts at Westminster", and further that "the said Countries may hereafter be reduced unto the pristine and sound Good Estate and Order, due Justice administered, poor Men's causes rightfully redressed, Offenders and Malefactors to be punished, good Men condignly cherished and rewarded, and also the Parties there about by Means of good Hospitality, refreshed".<sup>1</sup> Authority was furnished "as well for the administration of Justice, as for all other things requisite and expedient to be done concerning the Premises", by a commission of oyer and terminer, and a commission for the administration of justice and decision of causes, griefs and complaints to be made between party and party.

Though the issue of these commissions did not suffice to clear up all difficulties, yet at least the Council was then so well established and empowered that thenceforth the Welsh problem was manageable: but it still required a good deal of managing, and in the early fifteen-thirties complaints were rife of lax administration.<sup>2</sup> The administration was made vigorous and irresistible during the presidency of Rowland Lee bishop of Chester (1534-43).<sup>3</sup> At the same time a series of statutes<sup>4</sup> first safeguarded justice against interested juries and then assimilated Wales, for all legal and political purposes, to England: 26 H. VIII c. 4 empowered the president and council to punish perjured jurors: 26 H. VIII c. 6 directed that felonies committed within any lordship marcher should be enquired of at the sessions held in the nearest county, and much strengthened the summary jurisdiction of the council. The

<sup>1</sup> Quoted by Skeel, p. 50: my spelling.

<sup>2</sup> Cf. Skeel, pp. 56-7.

<sup>3</sup> More correctly, bishop of Lichfield and Coventry, but the see was commonly referred to by the name of Chester.

<sup>4</sup> Cf. p. 252 below.

next year 27 H. VIII c. 26 incorporated Wales with England, annexing some lordships to neighbouring counties and grouping others to form new counties.<sup>1</sup> The thing was done, so far as enactment could do it (though some supplementary statutes were found necessary<sup>2</sup>), and Bishop Lee's administration gave the parchment provisions an existence in reality. England and Wales were one realm with one law, one crown, and one standard of order. The Council of the Marches had no local rival to fear: there was nothing stronger than it except *the* Council, which might give it instructions, might listen to appeals from it, or might be invoked by it *ad maiorem terrorem*, to the increase of awe.<sup>3</sup>

Not very different essentially were the nature and development of the Council of the North. As has been seen,<sup>4</sup> it was a little more feudal in origin. There was also a sentimental difference considerable enough to be matter of practical politics. The Tudors were Welsh, the Mortimers were extinct: what affection there was in politics was in the west on the Tudor side and there was no name and blood that could compete with theirs in magic. In the north it was different: and in the north also at Henry VIII's succession every trace of special jurisdiction<sup>5</sup> had disappeared, and there was a notable increase in cases from those parts brought to the star chamber. So it was that in 1522 the problem of the north had to be tackled all over again, though, of course, not without help from the experience of the last two reigns.<sup>6</sup>

Henry VIII entrusted the military government not to the Percy family but to minor nobles, especially Dacre of Gilsland, who did not rise above their own interests and their own feuds: quarter sessions were not kept for want of a quorum: in 1521 there were no sheriffs for Cumberland and Northumberland: when in 1522 the new bishop of Carlisle went north to help Dacre prepare for war he found a terrible

<sup>1</sup> With "county courts, towns, hundred courts, sheriffs, justices of the peace, coroners and escheators", and M.P.'s, Holdsworth, IV, p. 37.

<sup>2</sup> 28 H. VIII c. 3; 31 H. VIII c. 11; 32 H. VIII cc. 4, 50; 34 and 35 H. VIII c. 26 (large power to alter the laws of Wales by the prerogative, Holdsworth, IV, p. 38).

<sup>3</sup> Cf. Skeel, esp. pp. 38-45, 56, 61, 66, 72.

<sup>4</sup> Cf. *Henry VII*, p. 36.

<sup>5</sup> Cf. *Henry VII*, pp. 32, 36.

<sup>6</sup> Cf. Reid, pp. 84, 87, 90, 91.

state of affairs—for instance, “more theft, more extortion by English thieves than by all the Scots of Scotland”. A little later Surrey was sent north to manage the war and reported in similar terms: there were very few gentlemen in Northumberland who had not thieves belonging to them, and the whole country thought the talk of administering justice there was only to frighten them, since no one was sent to stay permanently among them for the purpose: he added the opinion of the judges that it was ten times more necessary to have a Council there than in the marches of Wales.<sup>1</sup>

Wolsey's desire to win the active support of the masses, the excess of business which his regimen was bringing to chancery and star chamber, the urgency of agrarian questions—the Husbandry Act of 1489 was continued by 6 H. VIII c. 5 and 7 H. VIII c. 1, but enclosure riots in the north increased till they culminated in the Pilgrimage of Grace—all these things pointed the same way. As Richard III and Henry VII had appointed their heirs to govern the north, and as Henry VIII himself had sent Mary to Ludlow, so he determined now, since he had no legitimate son, to send to Sheriffhutton his bastard by Elizabeth Blunt, created duke of Richmond for the purpose. He was appointed Warden-general and Lieutenant-general, and with the king's son in these offices it was possible to leave the great nobles out of the government and to give him a council almost exclusively legal and clerical, without any one in it above the degree of knight. The council's authority was derived from commissions of oyer and terminer, of the peace, and of enquiry of office.<sup>2</sup> It differed from its predecessors in the extension of its authority over the marches, so that it covered all the country north of the Trent except Durham. A little later, indeed, the administration of the marches was again broken off and given to Percy and Dacre, but they were assisted by some of the duke of Richmond's

<sup>1</sup> Cf. Reid, pp. 93–5 and Brewer, I, pp. 532, 549, with his quotations from *L. and P.* III, nos. 2531, 3240.

<sup>2</sup> “...an inquiry made by the King's officer, his sheriff, coroner or escheator, *virtute officii*, or by writ to them sent for that purpose, or by commissioners specially appointed, concerning any matter that entitles the King to the possession of lands or tenements, goods or chattels”, e.g. an *inquest post mortem*. This quotation from Blackstone (III, p. 258) is in Reid, p. 107. For the whole of this paragraph cf. Reid, pp. 97–112.

Council, to whose authority also the marches continued to belong in matters of justice.

There, for the present, the Council of the North may be left, an established institution, whose relation to *the* Council was the same as that of the Council of Wales, and whose future history was to be continuous and normal. In 1537 the organisation of the King's Council Established in the North Parts was completed and its jurisdiction finally determined. By that time the Council, no longer connected with a Household nor burdened with the cares of estate management, had become a purely administrative and judicial body. "The supreme executive authority north of the Trent, it was also the supreme court of justice, exercising the whole of the Crown's criminal and equitable jurisdiction as well as the justiciary power belonging to the king as lord of scores of honours and baronies; and its authority, no longer confined to the territory of one magnate, nor even to a single shire, extended over all the five northern counties, within liberties as without."<sup>1</sup> As a court of equity it was certainly popular and useful, as a criminal court useful but not so popular, as an administrative board unpopular with the gentry whom it checked and superseded, unpopular not least because of its largely clerical character, for if the north was more catholic than the south it was no less anti-clerical. Its establishment did not at once free the north from disorder and injustice, but its maintenance did so diminish those evils that it was possible in two generations filled with religious and economic revolution and with foreign danger to tranquillise the north and to knit it into the general fabric of the country.

The Council with the King necessarily remained *the* Council, with over-riding powers, and provincials felt the benefit of conciliar jurisdiction far outweighed by its disadvantages if it frequently or unnecessarily summoned them to London. But the central government had no temptation to desire this effect, and tried to avoid it. In 1515 the earl of Kildare was instructed to arrange in the Irish parliament that any one getting an Irish subject to England by privy seal should have to give sureties to pay the costs of defendant if successful.<sup>2</sup>

<sup>1</sup> Reid, p. 147.

<sup>2</sup> *L. and P.* II, no. 996.

Similarly, pains were taken in the interests of Welshmen<sup>1</sup> and northerners.<sup>2</sup>

In the Subsidy Act of 1540 one of the reasons alleged for the bounty of the commons was the king's maintenance of the Councils of Wales and of the North (and of the similar Council of the West), "by reason whereof his true subjects poor and rich without tract of time or any great charges or expenses, have undelayed Justice daily administered unto them".<sup>3</sup> The king was performing his function as the fountain of justice with unaccustomed abundance, and it was not for his subjects to be unusually grudging of supply.

<sup>1</sup> *L. and P.* IV, nos. 1872, 1887, 2201, Ld. Ferrers, member of the princess's council, to the president and to his nephew for transmission to Wolsey, on the soundness of the old policy and the trouble caused by the apparent dropping of it, Jan. 1526.

<sup>2</sup> Duke of Richmond's council to Wolsey, to beg off the prior of Bridlington from a subpoena.

<sup>3</sup> 32 H. VIII c. 50: "The King's most loving subjects in this present Parliament assembled, lovingly calling to their remembrance the innumerable benefits and goodness, which they always have found in the King's most royal Majesty, their natural and most dread Sovereign Lord, reigning over them the space of thirty-one years full and more, during the which they have wealthily lived, and prosperously continued under his Majesty well defended governed and maintained from and against all manner of enemies, to their no little surety wealth quiet and rest; How his Highness also by the inestimable grace that God hath given him, and his only high prudence wisdom and study, hath brought his said true subjects out of all blindness and ignorance into the true and perfect knowledge of Almighty God, by his most holy word; The abolishing also of the Bishop of Rome and his usurped authority, by whose subtil imagination practice inventions and devices exceeding sums of money have wont daily and yearly to be conveyed out of this Realm. . . . Considering also the exceeding great costes charges and expences that his Highness hath sustained in and about the suppression of the late great rebellion in Lincolnshire, and . . . what yearly costs and charges also his Majesty is at, and of long time hath been, for and about the establishing of three Presidents and discreet several Counsailes, as well in the Marches of Wales . . . as in the North and West . . .": and the preamble went on to speak of the expenses of fortification, of the navy of harbour maintenance: "Therefore though they recognise themselves far unable and of small power to do anything that might be grateful to so noble a Prince and Sovereign", yet as an earnest of good-will they granted him four fifteenths and tenths.

### CHAPTER III

#### RISKS OF DISORDER—ENCLOSURES, ALIENS, DYNASTIC-FEUDAL, OPINION

The realm had been brought into much better order by Henry VII than he found it in, and by Henry VIII into better order still; and especially, the first had given life, and the second strength and permanence, to institutions for spreading and preserving law and order in those remote and imperfectly settled parts of the realm where they were most needed. It was an achievement of first-rate importance in the history of English government; but the perspective of it would be false if it were not remembered that in other parts of England besides the north and west the raising of disorder still remained easy and the possibility of it was always, therefore, one of the considerations in the mind of government.

The chief reasons why the risk never became much graver than it did were partly the measures indicated above and still more the extreme difficulty in sixteenth-century conditions of a concerted agitation: there were two exceptions to this extreme difficulty; general taxation was likely, precisely in so far as it was general, to arouse general resentment,<sup>1</sup> and an upheaval of London was important by itself and not merely, like a provincial upheaval, in proportion to its chance of exciting others.

When Londoners indulged in enclosure riots, for instance, they were successful. In 1514<sup>2</sup>

the towns about London (as Islington, Hoxton, Shoreditch, and others) had so enclosed the common fields with hedges and ditches, that neither the young men of the city might shoot, nor the ancient persons might walk for their pleasure in the fields, except either the bows and arrows were broken or taken away, or the honest and substantial persons arrested or indicted, saying that no Londoner should go out of the city but in the highways. This saying sore grieved the

<sup>1</sup> Cf. e.g. resistance in 1525.

<sup>2</sup> This is the year, too, of Hunne's case: cf. p. 112 below.



Londoners, and suddenly this year a great number of the city assembled themselves in a morning, and a turner in a fool's coat came crying through the city, "Shovels and spades", and so many people followed that it was wonder, and within a space all the hedges about the towns were cast down, and the ditches filled, and everything made plain, the workmen were so diligent. The king's council hearing of this assembly came to the Greyfriars, and sent for the mayor and the council of the city to know the cause, which declared to them the noisance done to the Citizens, and their commodities and liberties taken from them, [and said that] though they would not, yet the commonalty and young persons, which were damnified by the noisance, would pluck up and remedy the same. And when the king's council had heard the matter, they dissimuled the matter, and commanded the mayor to see that no other thing was attempted, and to call home the citizens, which when they had done their enterprise, came home before the king's council and the Mayor departed, without any harm more doing, and so after the fields were never hedged.<sup>1</sup>

In 1517 the Londoners again got out of hand, and this time their clamour was not such as would naturally attract the sympathy of court or government, but implied an interference with high politics, foreign relations and the regulation of foreign trade, and a criticism of the way in which they had been conducted. Perhaps one predisposing cause was the prevalence of the sweating sickness which, breaking out in the spring of 1516 and continuing (with some abatement in the winter) for three years, kept the court from London, hindered business, and bred disquiet. On 28 April 1516, a bill was set upon the door of St Paul's reflecting upon the king and his council and insinuating that foreigners obtained much money from the king and "bought wools to the undoing of Englishmen".<sup>2</sup> The government was much displeased, and appointed one of the king's council to visit every ward, and with the alderman of that ward to interview every man in it who could write and to examine his books. This procedure does not appear to have had any direct results; regarded from the twentieth century (or

<sup>1</sup> *Henry VIII*, by Edw. Hall (ed. C. Whibley), I, p. 119: my spelling.

<sup>2</sup> I.e. exported English wool, thus depriving Englishmen of the profits they might have had from doing so, or of the still greater profits that might have been drawn from making up the wool in England. Large concessions had recently been granted to Italian merchants; cf. Brewer, I, p. 244, and for all this paragraph.

even from the seventeenth), that is the most remarkable thing about it. It is remarkable enough that it should have been practicable, in a town which then bore a higher proportion to the whole country than it does now, to scrutinise all the handwriting there was: more remarkable that the central government should resent so highly any touch of criticism: most remarkable that it should be able, on the mere warrant of reason of state, to obtain the unanimous co-operation of the city authorities for an inquisition equally general and intimate, and all that without (apparently) exciting any appeal to the privileges of the city or to the rights of Englishmen.

The trouble was not over: it boiled up again more fervently next year. "In this season, the Genoese, Frenchmen and other strangers said and boasted themselves to be in such favour with the king and his council, that they set nought by the rulers of the city: And the multitude of strangers was so great about London, that the poor English artificers could scarce get any living: And most of all, the strangers were so proud that they disdained, mocked, and oppressed the Englishmen",<sup>1</sup> and Hall goes on to give horrible instances: it is not necessary to take these at his valuation nor to believe that the behaviour of the aliens was really so outrageous: the Londoners disliked them heartily just because they were aliens and still more heartily because they were competitors.

Of this feeling a broker named John Lincoln made himself the fogleman. He wrote out a statement of the grievance, and first tried to get Dr Henry Standish, warden of the Greyfriars and the most popular preacher of the day, to expound it "at St Mary's Hospital the Monday in Easter Week, to move the Mayor and Aldermen to take part with the commonalty against the strangers: The Doctor answered that it became not him to move any such thing in a Sermon".<sup>2</sup> Lincoln then approached Dr Beale, a canon of the same hospital, who was to preach on the Tuesday, and told him

how miserably the common artificers lived, and scarce could get any work, . . . for there were such a number of artificers strangers. . . . And

<sup>1</sup> Hall, 1, p. 154: my spelling and punctuation.

<sup>2</sup> Hall, 1, p. 155.

also how the English merchants could have no utterance,<sup>1</sup> for the merchant strangers bring in all Silks, cloth of Gold, Wine, Oil, Iron, and such other merchandise. . . . And also outward, they carry so much English Wool, Tin, and Lead that Englishmen that adventure outward can have no living: Which things, said Lincoln, have been shewed to the council, and cannot be heard. And further, said he, the strangers compass the city round about, . . . and forstall the market. . . : Which is the cause that Englishmen want and starve, and they live abundantly in great pleasure. . . .

With these arguments and others, as that the Germans brought over "Iron, Timber, leather, and Wainscot ready wrought", Lincoln persuaded Beale to take a wider view of a cleric's competence than Standish had done; "Well", said the doctor, "I will do for the reformation of this matter as much as a priest may do."<sup>2</sup>

When he came to preach on Easter Tuesday 1517, he began by reading Lincoln's statement of the case, as far as to where it said that "the redress must be of the commons, knit and united to one party, and as the hurt and damage grieveth all men, so must all men set to their willing power for remedy"; he went no further with Lincoln's paper, and indeed it required courage enough to go so far, but then began on the text *The heaven is the Lord's and the fulness thereof; but the earth hath he given to the children of men*, to argue that "this land was given to Englishmen, and as birds would defend their nest, so ought Englishmen to cherish and defend themselves, and to hurt and grieve aliens for the common weal. Of this Sermon many a light person took courage, and openly spake against strangers".<sup>3</sup>

These and similar excitations, and (according to Hall) a series of assaults upon aliens for which various persons were imprisoned by the mayor, led to a rumour that on May Day "the city would rebel and slay all aliens"; so much so that Wolsey sent for the mayor and others of the city council and asked them if they had heard it: "No surely," said the mayor, "and I trust so to govern them that the king's peace

<sup>1</sup> I.e. sale.

<sup>2</sup> Hall, I, pp. 155, 156.

<sup>3</sup> Hall, I, p. 157; cf. also Brewer, I, p. 247, quoting Giustinian (Venetian ambassador): "From that day they commenced threatening the strangers that on the first of May they would cut them to pieces and sack their houses".

shall be observed, and that I dare undertake, if I and my brethren the aldermen may be suffered." Whereupon the cardinal dismissed them, with a further warning of their responsibility.

Then the city fathers went to the Guildhall and discussed what they should do. Their recorder thought "it were best that a substantial watch were set, of honest persons, householders, which might withstand the evil-doers"; but on the other hand it was argued that "it was evil to raise men in harness, for if such a thing were intended, they could not tell who would take their part". With these and other opinions the recorder went to the cardinal, "and then he, with such as were of the king's council at his place, commanded that in no wise watch should be kept, but that every man should repair to his own house, and there to keep him and his servants till seven of the clock of the morning".<sup>1</sup>

This method proved inadequate. According to Hall, before the commandment could become known an alderman's tactless attempts to disperse some young men playing at bucklers caused a cry of *Prentices and clubs*, and then "out at every door came clubs and weapons and . . . then more people arose out of every quarter", even courtiers. In any case, a disorderly and not unarmed mob collected, and in the words of Herbert, "finding themselves in a greater multitude than to do nothing",<sup>2</sup> ignored the proclamation in the king's name of the mayor and sheriffs, ignored the persuasions of Sir Thomas More and other honest persons, broke open the prisons, and sacked the houses of many aliens, including the king's French secretary Peter Meautis, who barely escaped with his life.<sup>3</sup>

The cardinal had taken military precautions:<sup>4</sup> the Lieutenant of the Tower "loosed certain pieces of ordnance and shot into the city", the rioters separated and some three hundred were arrested, "the earls of Shrewsbury and Surrey . . . came to London with such strength as they had, so did the Inns of court, and divers noblemen".<sup>5</sup>

On 14 May 1517 the prisoners (to whom Beale and Lincoln had been

<sup>1</sup> Hall, I, p. 158.

<sup>2</sup> P. 68.

<sup>3</sup> Cf. Hall, I, p. 159 and Brewer, I, p. 247.

<sup>4</sup> According to Brewer, I, p. 247: cf. above, p. 31, below, p. 44.

<sup>5</sup> Hall, I, p. 160.

added) were brought before the mayor, the duke of Norfolk, the earl of Surrey, and others, acting under a commission of oyer and terminer and protected by thirteen hundred armed men whom the duke had brought. According to Brewer,<sup>1</sup> "they were tried under the statute of high treason", but it appears from Hall<sup>2</sup> that they were brought under the penalties of treason by being indicted on the statute 2 H. V c. 6, whereby any violent molestation of persons under the king's safe-conduct was to be "adjudged and determined for high treason"; Hall does not add (what is the fact) that that statute had been repealed by 20 H. VI c. 11.

It could not be proved that there had been "any meeting, gathering, talking, or conventicle at any day or time before that day, but that the chance so happened without any matter prepensed of any creature saving Lincoln", yet thirteen of the prisoners were found guilty of high treason and were by the duke's servants hanged, drawn, and quartered at eleven gallows scattered about the city. A few days later some others were sentenced, but after Lincoln, who was one of them, had been executed the rest, and indeed all the prisoners, were respited. For all this severity and for all the high looks and high words of the noblemen's armed retainers,<sup>3</sup> disorder did not at once cease nor did foreigners cease to be in some danger.

After repeated entreaties to Henry from the queen his wife and from the two queens his sisters, from Wolsey his chief minister and friend, from the mayor and aldermen, from the prisoners themselves and from the lords, finally on May 22 in Westminster Hall in the king's presence and as his mouthpiece, "the Cardinal sore laid to the Mayor and commonalty their negligence, and to the prisoners he declared that they had deserved death for their offence", but then announced their pardon; in anticipation of which many persons who had so far escaped arrest but who had guilty consciences had mingled with the four hundred

<sup>1</sup> Brewer, I, p. 247.

<sup>2</sup> Hall, I, p. 161.

<sup>3</sup> Hall, I, p. 161, says they "spake many opprobrious words to the citizens which grieved them sore; and if they [i.e. the citizens] would have been revenged, the others had had the worse, for the citizens were two hundred to one; but like true subjects they suffered patiently". On 5 May 1517 Giustinian reported to Venice that there were 5000 men-at-arms in the city, *L. and P.* II, no. 3204.

and eleven prisoners, like them stripped to the shirt and with halters round their necks. "Then were all the gallows in the city taken down, and many a good prayer said for the king, and the citizens took more heed to their servants": so says Hall, but certainly the mutilated remains of some of the victims remained in the public sight, and in the public mind resentment both against foreigners and against noblemen. Five months later disorder broke out again, when the king and cardinal were away, but this time the city authorities were able to cope with it.<sup>1</sup>

This story throws a good deal of light on the methods and circumstances of sixteenth-century government. The population was small, in London it was small enough and yet dense enough for a spontaneous rising to be something like general; it was illiterate, so that it was not a hopeless task to look through all the handwriting in London to find the one that was to be identified; it was corporately self-conscious; it could easily and quickly arm itself,<sup>2</sup> imperfectly but well enough to be dangerous.

The control of the central government was hindered by practical deficiencies much more than by formal checks. The mayor and aldermen made no bones about doing what they were told by the council, even though it consisted only of such persons as the king's principal minister could hastily collect. No objection was raised to the search of houses and books on what modern terms would call administrative authority without any judicial warrant. The severest penalties were thought convenient, and so the law under which they were imposed was not too closely scrutinised. The royal commission sufficed to appoint as judge the mayor, not in any case likely to be very tolerant of disorder and in this case uneasily conscious that he risked being held responsible, and a few noblemen not naturally sympathetic with urban mobs and still hot from suppressing them.

If the government's action, especially its repressive action, was thus

<sup>1</sup> Hall, I, p. 164; Brewer, I, p. 249.

<sup>2</sup> Cf. p. 58 below. And popular excitement made government difficult in other ways: according to Giustinian (II, no. 3204) Wolsey arranged with certain members of parliament to confer with them on the Candian wines about which their two governments were negotiating: he thought he would have settled the question before "but for a perilous circumstance", i.e. these very riots.

free from formal restrictions, it had on the other hand very little force directly at its disposal.<sup>1</sup> The Lieutenant of the Tower could shoot off his guns (which do not seem to have done much damage), but otherwise all the other actual power used was only indirectly at government's disposition. The way to prevent disturbance was to instruct all householders to keep their dependents under their eye: the way to suppress it was to invite the duke of Norfolk, the earl of Shrewsbury, and the Inns of Court to march in their men.

As there was almost no public force but only various forces which the central authority might invoke on such occasions as it could trust them for, so the prerogative of pardon was far from being officialised: it was the royal person, moved not altogether by impersonal motives, to whom a whole city owed gratitude for the surcease of blood-letting. And it was a part of the same set of facts that the royal person knew that his policy and administration must always be such that he could be secure of the support of a preponderance among existing forces, and that his punishments must be so calculated as to cause more fear than resentment.<sup>2</sup> An incidental deduction worth making from the story of Evil May Day is that the Londoners had a natural sympathy for friars, a natural antipathy for noblemen.

Most other disorders of the early sixteenth century which had a more than local importance were financial in origin (as, indeed, very largely, was Evil May Day also).

And the third source of disorder which the government dreaded was dynastic, or dynastic-feudal. Twice, in the early part of the reign, it showed its anxiety on this score and cut out what it regarded as potential roots of discord. Of the execution of Edmund de la Pole earl of Suffolk little notice need be taken, and indeed almost none at all appears to have been taken at the time.<sup>3</sup> For years he had been lying under

<sup>1</sup> If the king had money to spare, of course he could hire foreign mercenaries, as he evidently had done, for instance, in 1513 (*L. and P.* 2nd edn. 1 (2), no. 2062, 3 July 1513): but evidently this is a large *if* and there were other difficulties, and actually such hiring seems never to have been more to Henry than a very occasional and not very effective resource.

<sup>2</sup> That in many of the respects indicated in the above paragraphs London was a fair specimen of England may be seen from the muster of 1522, see below, p. 58.

<sup>3</sup> Cf. Brewer, 1, p. 47.

attainder for treason,<sup>1</sup> and since January 1506, when he was surrendered by Philip of Castile, he had been in the Tower. Henry VII promised that his life should be spared,<sup>2</sup> but when shortly before his death he issued a general pardon it did not extend to treason and felony, and moreover when Henry VIII confirmed it Suffolk was excepted by name. It was not surprising therefore that in June 1513, when Suffolk's brother Richard was in Lewis XII's service and the danger of a Yorkist pretender with foreign backing was again urgent, that then the old attainder was brought into operation to take off Suffolk's head.

The case of Buckingham is much more notable. He had been excluded from political authority, in accordance with the usual Tudor policy towards the old nobility. He was one of the richest of the nobles, and quite the most popular,<sup>3</sup> partly because of his hostility to France and everything French. Already in the last reign he had been considered a possible candidate for the throne,<sup>4</sup> and now in 1519 when the possibility of Catharine's bearing Henry a son seemed altogether remote, he was being so considered again. The Venetian ambassador thought that, "were the king to die without male heirs, the Duke might easily obtain the crown".<sup>5</sup>

It was unfortunate in these circumstances that Buckingham, who seems to have tried hard enough though unsuccessfully to attract the royal favour,<sup>6</sup> should have drawn upon him Henry's most suspicious regard. In November 1520 the king sat in the star chamber and there were several brought before him for riots, misdemeanours, and offences, and especially he rebuked Sir William Bulmer, "because he being the king's servant sworn, refused the king's service, and became servant to the duke of Buckingham... he would none of his servants should hang on another man's sleeve, and that he was as well able to maintain him as the duke of Buckingham: and what might be thought by his departing and what might be supposed by the duke's retaining, he

<sup>1</sup> *Rolls of Parliament*, vi, p. 545, Jan. 1504.

<sup>2</sup> *D.N.B.* xvi, p. 23.

<sup>3</sup> But cf. p. 48 below.

<sup>4</sup> Cf. p. 2 above.

<sup>5</sup> *Venetian Calendar*, II, p. 1287, quoted by A. F. Pollard, *Henry VIII*, p. 182.

<sup>6</sup> Cf. Brewer, I, p. 387.



would not then declare...and never a nobleman there durst entreat for him, the king was so highly displeased with him", but in the end he forgave him, "saying that we will that none of our servants shall belong to any other person but to us, nor we will not that our subjects repine or grudge at such as we favour, for our pleasure we will have in that case as us liketh, for one we will favour now and another at such time as we shall like".<sup>1</sup>

Five months later the arrest of the duke of Buckingham struck "not only England, but all Europe with amazement".<sup>2</sup> He was accused of high treason on a series of charges all of which rested on the testimony of his servants and consisted in indiscreet expressions: he was said to have spoken disapprovingly of the Tudors and hopefully of the possibility of his own succession, and to have declared that if Henry had sent for him over the Bulmer affair he would have stabbed him to death.

Out of such allegations, resting on the credibility of dissatisfied and treacherous servants, a case was made against the duke, and it was made in a preliminary examination of the witnesses conducted by the king himself<sup>3</sup> with the assistance of his secretary Thomas Ruthal bishop of Durham. By this examination the witnesses were instructed and their depositions sifted so that what was inconvenient might not be brought forward at the trial, and the king convinced himself that the duke was guilty.

The trial was before the court of the lord high steward; that office was conferred upon the duke of Norfolk for the occasion, and the court was made up of a duke, a marquis, seven earls, and a baron. The depositions were read, the accused was not allowed counsel, and though he was permitted to have the witnesses brought into court to confirm their depositions,<sup>4</sup> he does not seem to have had any chance of cross-examination nor of bringing forward any sort of defence except his own protestations.<sup>5</sup>

<sup>1</sup> Edw. Hall's *Chronicle* (ed. C. Whibley), I, p. 180.

<sup>2</sup> Brewer, I, p. 375.

<sup>3</sup> Brewer, I, p. 383: and see all that chapter.

<sup>4</sup> Hall, I, p. 224.

<sup>5</sup> Cf. Brewer, I, p. 392; Hall, I, p. 224.

It is not surprising that the peers unanimously found the accused guilty and that Norfolk pronounced sentence that he should be hanged, drawn and quartered. The king mitigated the sentence to beheading, and, under Wolsey's persuasion, sent letters of "consolation and credence" to the widowed duchess and her son. The late duke's rent-roll was reckoned to have been worth over six thousand pounds a year,<sup>1</sup> and the confiscations were a great windfall for the king and for those whom he wished to benefit; among the beneficiaries were the two dukes, Norfolk and Suffolk,<sup>2</sup> who had judged Buckingham. Norfolk had wept when he gave sentence, but he had not dared resist the king's will and might as well take his reward.

This episode is worth so much attention because it throws a good deal of light upon the circumstances and potentialities, the ideas and methods, of Tudor government. Consider, in the first place, the reasons why the episode happened: they were dynastic, feudal, and personal. How dynastic is shown (if it needed showing) by one of Pace's<sup>3</sup> contemporary notes on the case—"As to the countess of Salisbury, nothing has yet been decided on account of her noble birth and many virtues".<sup>4</sup> But what had it all to do with Lady Salisbury? Nothing, except that she too had some of the fatal blood of the Plantagenets, blood not to be fatal to her for another twenty years.

The motive, then, was dynastic, and it is an apt reminder that all through the Tudor period the main motive of politics remained, as in the preceding century, dynastic. Before, that motive had led to frequent changes: now, government was strong enough and well enough supported by the people to prevent such changes; but it was never quite sure that it was going to be strong enough; so it was tempted to violence, a violence which its subjects, not desiring revolution, supported. And in general it is clear that so long as dynastic rivalry, actual or potential, is the main preoccupation of politics, the evolution of constitutionalism is impossible: there will be revolutions, or the executive will *be* the

<sup>1</sup> To bring to something like present values, multiply by 20.

<sup>2</sup> Charles Brandon.

<sup>3</sup> Pace was at the time the king's secretary.

<sup>4</sup> Brewer, I, p. 384, quoting from *L. and P.* III, no. 1204: cf. p. 418 below.

constitution, its power the test by which all organs live or die, develop or decay.

In another way also the sixteenth century was more like the fifteenth than is always remembered. By that time English political arrangements had almost ceased, and were rapidly ceasing, to be feudal; but ideas lagged behind practice. Henry VIII was not a feudal king, but his feelings about the Bulmer case were as feudal as if he had been.

If political sentiment was still largely feudal, the practice of government was still far from ceasing to be personal. The king in person (with how much prompting, if any, from Wolsey is still matter of dispute<sup>1</sup>) decided and managed the ruin of Buckingham, postponed that of Lady Salisbury; the lords who condemned Buckingham were personally in awe of the king and in sympathy with his victim.

The great majority of them sympathised with Buckingham's complaints against the exclusion of the aristocracy from office, with his dislike of Wolsey, with his hatred of France, and no doubt would have wished to save him.<sup>2</sup> It was thought worth while to tell the emperor that the duke had confessed the truth of his indictment. To Francis, Henry represented that Buckingham had been traitorously working against the French alliance, but in England nothing was said of this charge. As things were there was some grumbling among the common people,<sup>3</sup> and if their francophobia had been provoked there would have been more. Opinion—the opinion of their nobles, of their people, of their brother-sovereigns—did matter to the Tudors. But even for a murder so barely judicial as this of Buckingham, Henry could procure all the opinion he needed. Especially remarkable is the acquiescence of Buckingham himself. "My Lord of Norfolk," he replied

<sup>1</sup> E.g. Brewer and Pollard disagree. Brewer, I, p. 381, Pollard, p. 182 ff.: Roy, writing early in 1528, *Rede me and be nott wrothe*, p. 50, had no doubt—

"Also a right noble prince of fame,  
Edward the duke of Buckingham,  
He caused to die, alas, alas":

but Roy is evidence only that that is the sort of thing Wolsey's enemies thought worth saying.

<sup>2</sup> Remember the marriage alliances of his family, cf. p. 3, n. 2 above.

<sup>3</sup> Though as a landlord Buckingham had been rather particularly tyrannical: cf. I. S. Leadam, *Requests*, p. lv.

when he was sentenced, "you have said as a traitor should be said unto, but I was never none. But, my Lords, I nothing malign for that you have done to me; but the Eternal God forgive you my death, and I do. I shall never sue to the King for life, howbeit he is a gracious Prince, and more grace may come from him than I desire. I desire you, my lords, and all my fellows, to pray for me."<sup>1</sup> His last words, spoken on the scaffold, were not much different: "he said he had offended the king's grace through negligence and lack of grace, and desired all noblemen to beware by him, and all men to pray for him, and that he trusted to die the king's true man".<sup>2</sup> The notion of a king who can do no wrong, a real king of flesh and blood not a lawyers' personification, seems to many modern minds silly: for sixteenth-century Englishmen it was not merely a respectable but a sacred idea, to which many of them showed that they could be faithful unto death.<sup>3</sup>

<sup>1</sup> Hall, I, p. 225.

<sup>2</sup> Hall, II, p. 226; Brewer, I, p. 395, and for all this paragraph cf. pp. 395-400.

<sup>3</sup> For some other examples, see A. F. Pollard, *Henry VIII*, p. 434 n.: it is fair to say also that the almost incredibly high level of loyalty and submission on Tudor scaffolds might be used as an argument that the lofty sentiments there expressed had not much meaning: cf. e.g. Norfolk t.r. Elizabeth, but I do not think this argument is very strong: modern garrotters and plug-uglies who exude filial affection after conviction have not always been kind to their mothers, but they are evidence that kindness to mothers is assumed, by them and by the general public, to be a leading virtue.

## CHAPTER IV

### TAXATION, AND EARLY PARLIAMENTS

Henry had inherited a treasury so full and permanent sources of income so rich, and all so completely within the personal control of the king,<sup>1</sup> that at first no financial problem presented itself, and the young heir was able to ignore the possibility that any ever would.<sup>2</sup> His father had been of a saving turn of mind, but even to his mind a high degree of magnificence had been politic; the son followed the same policy, and had expensive tastes of his own: but what mattered much more was a costly diplomatic and military policy, and later in the reign the general rise of prices. The reserve which Henry VIII had inherited was exhausted by the first French war.<sup>3</sup> Re-filling became necessary: lenders would want to be repaid, benevolence was a name that might become dangerously ironical, and taxation is never popular: in a time when it was occasional, when the amount of actual cash existing was very small and the devices for apparently multiplying it a scarcely developed monopoly of international financiers, in such a time taxation was all the more unpopular, and it was well for Wolsey that the extraordinary reductions which his efficiency made<sup>4</sup> in expenditure almost removed the need for supplementary revenue, and therefore for parliaments.

The first mention of parliament in the new reign seems to have been in July 1509, when Badoer reported to the Signory Henry's regrets at the Venetian defeat and his friendly intentions, including that of calling "a parliament upon the matter".<sup>5</sup> That the king should have

<sup>1</sup> Cf. *Henry VII*, p. 25; 1 H. VIII c. 3 was passed at once to protect the king's receiver-general against the Exchequer: John Heron was not to suffer the fate of Empson and Dudley.

<sup>2</sup> Cf. Brewer, I, p. 226, and A. P. Newton on "The King's Chamber under the early Tudors", *E.H.R.* xxxii, p. 348, and F. C. Dietz, *English Government Finance*, 1485-1558, pp. 60 ff.

<sup>3</sup> Cf. Dietz, pp. 89-93.

<sup>4</sup> Brewer, I, p. 227, but cf. Dietz, pp. 89 ff. on increase of expenditure and diminution of revenue as the reign went on.

<sup>5</sup> *L. and P.* I (1920), no. 98. Cf. *R.P.* IV, p. 135 for Henry IV using his parliament similarly and *Bul. J. Rylands Library* (art. E. F. Jacob), xv, p. 379 for his letter to Alexander V to persevere with the Council and his own intention to help reformation after a special parliament. T. Ryder, *Foedera*, VIII, p. 807, Henry V telling the nuntio he could not touch statute.

mentioned parliament on such an occasion is probably evidence of inclination not so much to widen co-operation with his subjects as to please foreigners with half-promises for which he might be less than half-responsible. But in any case the new reign meant that a parliament must be called of course. In October writs were issued<sup>1</sup> and a clerk appointed,<sup>2</sup> in November Badoer reported "the king has called a parliament for 21 January, about relations with France. There is talk of war".<sup>3</sup> On the appointed day the parliament met, and heard a sermon from the archbishop of Canterbury on the text *Deum time, Regem honorificate*.<sup>4</sup> Three days later four bills were read, the first, as usual, to confirm the liberties of the Church.

The principal work of this parliament, besides the business of Empson and Dudley,<sup>5</sup> was the assignment of money for the king's household and wardrobe,<sup>6</sup> the confirmation of the receiver-general's right to receive payments,<sup>7</sup> and the grant of tonnage and poundage for life.<sup>8</sup> The purpose of the next session of parliament (4 Feb. 1512) was again mainly financial. The chancellor's text was *Justitia et Pax osculate sunt*, and it was not till the fifteenth day of parliament that he showed the lords the secret reason for their summons, and then he and the treasurer and other lords went down to the common house and made the same explanation there: the reason was the dangerous state of Christendom—the French devouring Italy and threatening Flanders, whose destruction would be to the inestimable damage of this realm, the king of

<sup>1</sup> No. 205.

<sup>2</sup> No. 218 (64), John Taillour (Taylor), king's clerk and chaplain and doctor of canon law, was appointed at £40 p.a. during pleasure: No. 381 (5), Wm. Underhill, clerk of the parliament of the Common House during pleasure.

<sup>3</sup> No. 230.

<sup>4</sup> Nos. 341, 342: *Lords Journals*, I, p. 3.

<sup>5</sup> *L.J.* I, p. 8, the attainder, and cf. 1 H. VIII c. 3 (confirming the Court of General Surveyors, cf. *Henry VII*, p. 27), c. 4 (actions on penal statutes to be commenced by or for the king within three years of the offence, by any other person within one year), c. 15 (lands made in trust to Empson and Dudley), c. 10 (leases of lands seized into the king's hands), c. 12 (admittance of traverse against an untrue inquisition).

<sup>6</sup> Cc. 16, 17: till 1520–1 the assignment was large enough, but then the Treasurer of the Chamber had to begin supplementing it, cf. Dietz, p. 89.

<sup>7</sup> C. 3.

<sup>8</sup> C. 20.

Scots forgetting his proper place and violating the border,<sup>1</sup> the dissensions between France and Rome.<sup>2</sup> Such reasons naturally led to a request for extraordinary supply,<sup>3</sup> and indeed all but the last reappear in the preamble to the bill<sup>4</sup> granting two-fifteenths and tenths which was brought up from the commons on the 45th day of parliament,<sup>5</sup> which four days later was prorogued<sup>6</sup> to November 4.

The remainder of the work of the spring session had not been very large or seemed very important: the only two statutes at all remarkable were one<sup>7</sup> against mummers and others disguising themselves and thus increasing the risk of disorder and one<sup>8</sup> providing for the licensing of physicians and surgeons by the bishops with expert assessors. A bill curtailing benefit of clergy got as far as second reading and committal,<sup>9</sup> though it was not passed till the autumn session.<sup>10</sup>

When the prorogued parliament met again in November 1512 it was found necessary to grant another whole fifteenth and tenth,<sup>11</sup> and this

<sup>1</sup> Add the resentment against Andrew Barton, "a Scottish man and a pirate of the sea", Hall, I, p. 37.

<sup>2</sup> *L.J.* I, pp. 10, 12.

<sup>3</sup> Henry had already (13 Nov. 1511) joined the Holy League, and must have the money to participate effectively. Cf. A. F. Pollard, *Wolsey*, p. 16, and *L. and P.* II, no. 969 (29). Julius II's letter to Henry, explaining how Lewis XII had flouted papal authority, was read to the lords: cf. *L. and P.* I (1920), no. 1065. Cf. no. 1055, for Lewis's depression on learning that Henry had "assembled the princes and nobles of England and concluded the enterprise against France".

<sup>4</sup> Which became 3 H. VIII c. 22.

<sup>5</sup> *L.J.* I, p. 17.

<sup>6</sup> Another, but abortive, financial measure of this session was a bill about the Treasurer of the Chamber, *L.J.* I, p. 15.

<sup>7</sup> C. 9.

<sup>8</sup> C. 11.

<sup>9</sup> *L.J.* I, p. 13.

<sup>10</sup> 4 H. VIII c. 2, to exclude from benefit clergy not in holy orders (i.e. not priests, deacons or sub-deacons) committing murder or felony in hallowed places, or robbery or murder on the king's highway or in a person's house.

<sup>11</sup> 4 H. VIII c. 19: every lord, and every sovereign of monastery, cathedral or other church, and every head of a household to be responsible for servants. It was reported to Venice (*L. and P.* I, nos. 1512, 1513) that parliament had sanctioned the king's resolve to cross the Channel in person, and granted £600,000. That parliament was a real factor in diplomacy is indicated by James's letters to the king of Denmark, how "England has resolved in parliament" to fight Scotland: cf. also no. 2355, Henry explaining to the pope (12 Aug. 1513) that he must return to England to meet his parliament. Henry is not generally given very high marks for good feeling, so it may be noted here that he asked permission to bury the king of

time the appeal was less to loyal and commercially minded subjects than to "all persons of Christ's Religion", scandalised by Lewis, who was not only adversary to Henry but also the mover and stirrer of schism and error in the Church, purporting to summon councils and to make decrees, as "That our said Holy Father the Pope should from thenceforth be sequestered of and from all jurisdiction and administration papal, with other great terrible decrees".

The two other memorable acts of this autumn each had an origin which went back to the earlier session: chapter 18 gave statutory confirmation to the ousting of Exchequer control by Chamber:<sup>1</sup> and chapter 8 set out to fix a point of privilege, in a way which had some importance at the time, no doubt, but much more a century later, when the understanding of it could hardly be what had been originally intended.

In the preamble of the act<sup>2</sup> Richard Strode, burgess of Plympton, complained how he in agreement with other burgesses had proposed certain bills<sup>3</sup> against certain Devonshire tinnerns,<sup>4</sup> and how they had taken advantage of the fact that he himself was a tinner to bring him for his behaviour in parliament before the Stannary Courts.<sup>5</sup> By them he was fined £160, and imprisoned for three weeks, until "he was delivered by a writ of privilege out of the King's Exchequer at Westminster, for that he was one of the collectors in the said county for the first of the two"<sup>6</sup> fifteenths recently granted. In accordance with this preamble the condemnation of Strode was annulled, and it was enacted that suits and accusments against him and the other persons specified

Scotland at St Paul's with royal honours though he died excommunicate. And in connection with parliament and diplomacy, note also no. 2682, Margaret of Savoy's letter to Henry (14 Feb. 1513) hoping he has not forgotten his promise to get the consent of parliament regulating the succession to the crown in favour of his sister the princess of Castile, in default of heirs of Henry's body.

<sup>1</sup> Cf. p. 52, n. 6.

<sup>2</sup> 4 H. VIII c. 8.

<sup>3</sup> Cf. *L.J.* 1, p. 16, 38th day of the spring session, bill brought up from the commons of Strode *erga Tynners*; next day, read *primo*.

<sup>4</sup> For obstructing ports and havens.

<sup>5</sup> Which had jurisdiction over the tin miners: their first charter was granted by John: cf. Holdsworth, 1, pp. 154 ff.

<sup>6</sup> I am following the extract from the statute printed by J. R. Tanner, *Tudor Constitutional Documents*, p. 558.



"that now be of this present Parliament or that of any Parliament hereafter shall be, for any bill, speaking, reasoning, or declaring of any matter or matters concerning the Parliament to be communed and treated of, be utterly void and of none effect".

This was to come to have great importance for the history of the parliamentary privilege of free speech in the sense of freedom for any member of either house to say anything he pleased on any subject he pleased however much it might displease any one else, including the king. At the time when the Strode incident happened it was an exemplification not of any such privilege but of privilege at once much more definite and much more general, the logically necessary rule that the process of a superior court should not be interfered with by that of an inferior court. Actually the misused Strode was doubly armed, and it had been convenient to get him out of his dungeon with the machinery of the exchequer:<sup>1</sup> but for greater security it was put on record by parliament, which was the highest court of all, that Strode and his associates were not to be troubled for their behaviour there in any inferior court.

In spite of the attempt in 1512 to put taxation on the highest plane, every one noticed that the English were very reluctant taxpayers, and even the monstrous French impiety of attacking papal authority did not loosen their purse-strings: and in any case, prolonged war necessitated further taxation. So on 23 January 1514, the same parliament was called back again, and excited against the French,<sup>2</sup> and told of the king's great victories,<sup>3</sup> won by the grace of God and the prayers of

<sup>1</sup> Though there had been writs of supersedeas and habeas corpus addressed to the warden of the Stannary for the delivery of Rd Strode, burgess, against whom proceedings have been taken in the Stannary Courts contrary to the privilege of Parliament, *L. and P. I* (1920), no. 1474, 4 Nov. 1512.

<sup>2</sup> Cf. *L. and P. I* (1920), no. 2592. There seems to have been talk, perhaps more than talk, of representation for Henry's oversea conquests: cf. no. 2520, meeting of the four consaulx at Tournai about sending a deputy to the parliament at London: cf. nos. 2450, 2684, 3545.

<sup>3</sup> Flodden (Sept. 1513) and Théroutanne (18 Sept. 1513). Towards the end of next year, Ferdinand's envoy was reporting to him that Catharine, taught by her confessor, was forgetting her duty to Spain, and as for Henry, "unless bridled by vigorous measures he will get beyond control, but his Councillors can be influenced through their dislike of war", *L. and P. I* (1920), no. 3524.

the church of England, and greater expenditure of royal treasure than subjects could repay; the parliament responded according to its poor means and its good-will, and granted £160,000.<sup>1</sup> Resident aliens were to be charged: the Venetians appealed to the king, "who heard them in presence of his parliament",<sup>2</sup> and told them they must pay.

In July 1514 peace was made with France, and Henry's sister Mary transferred from Charles<sup>3</sup> to Lewis, but the peace had not come soon enough to prevent the necessity of taxation: the king was suspected, indeed, of delaying the settlement in order to levy all the money granted by parliament for the war.<sup>4</sup> But he did not collect most of it without further difficulties, and when a new parliament met in February 1515<sup>5</sup> the chancellor, with a couple of bishops, a duke, two earls, and several other lords, went down to the common house and declared the causes of their meeting, "and especially dealt with the sums of money granted in the preceding parliament",<sup>6</sup> and the non-payment of them and the necessity of collecting them not from the poor and indigent but from the rich and willing to pay, and the provoking behaviour of the Scots. Accordingly, the collection of tonnage and poundage was tightened up<sup>7</sup> and so was the whole business of accounting;<sup>8</sup> many grants of lands and offices and annuities were resumed;<sup>9</sup> a bill to deal with the king's debts had five readings<sup>10</sup> but came to nothing in the end, and a project about the foreign exchanges proved equally troublesome and equally futile;<sup>11</sup> and another Subsidy Act was passed.<sup>12</sup> Also, a step was

<sup>1</sup> 5 H. VIII c. 17: to be raised by a subsidy on a strict assessment, of wages, chattels, and land, with a poll-tax on those who came below the assessment, and with a supplementary subsidy if necessary: negligent commissioners might be fined by the "treasurer, speaker, knights, citizens, and burgesses, or the more part of them", S.R. III, p. 109.

<sup>2</sup> *L. and P.* I (1920), no. 2747, Lorenzo Pasqualigo to his brothers.

<sup>3</sup> Archduke and future emperor, to whom she had been promised in 1499, 1507, 1513.

<sup>4</sup> No. 3073, Pasqualigo writing on the 8th and 12th of July.

<sup>5</sup> Writs issued the previous November: nos. 3464 and 3499 (46).

<sup>6</sup> *L.J.* I, p. 21, 10 Jan. 1515.

<sup>7</sup> By 6 H. VIII c. 14.

<sup>8</sup> C. 24, and cf. Dietz, pp. 73, 74.

<sup>9</sup> C. 25.

<sup>10</sup> And then went to a committee of lawyers, and then was amended again. *L.J.* I, pp. 26, 35, 36.

<sup>11</sup> *L.J.* I, pp. 36, 39.

<sup>12</sup> This session was busy also about Hunne and about benefit of clergy: it passed a few statutes about legal matters and a good many about economic ones.

taken towards making the house more capable of self-consciousness and self-defence by 6 H. VIII c. 16, which permitted the Speaker and house to license a member's absence and instructed the clerk to keep a register of names and attendances.<sup>1</sup>

The Subsidy Act<sup>2</sup> recited that of the £160,000 formerly granted very little more than £50,000 had been actually collected, and proceeded to grant anew £110,000, to be rated on real and personal property and to be paid on 2 November 1515 and 21 November 1516. But even all this repetition of parliamentary grant did not suffice. Wolsey did not at all want another meeting of parliament, and soon after he had been driven to it was recommending "a more speedy dissolution";<sup>3</sup> but a second session in 1515 was necessitated by the state of the revenue, and lasted from November 12 to December 22. It passed a Navigation Act and a General Pardon and a few other acts, of which the most important was 7 H. VIII c. 1, for the rebuilding of towns and re-ploughing of pastures laid down since the beginning of this parliament;<sup>4</sup> but more notable is what it did not pass, bills that were discussed but did not become acts, about conspiracy, and services due from landholders and annuitants, receivers-general, goldsmiths, bow-staves, lambs and calves, incorporation, homicide by clerks;<sup>5</sup> and this in spite of machinery for arranging agreement between the two houses, for the chancellor on 16 Nov. 1515 directed that bills passed in the previous session by commons but not by lords should be brought to the star

<sup>1</sup> Cf. p. 60 below. A. F. Pollard, *Evolution*, p. 332, thinks that from this register may have come the idea of instituting journals: but there is no trace of the register, and cf. *Henry VII*, p. 123, n. 6, commons copies of subsidy indentures, and the *Lords Journals* beginning in 1509.

<sup>2</sup> 6 H. VIII c. 26.

<sup>3</sup> *L. and P.* II, no. 1223.

<sup>4</sup> The sanction was that the superior lords, including the king, might take half the annual values of property in respect of which the act was neglected. This did not work, and Wolsey's attempt to supply the defect by prerogative jurisdiction rather aroused resentment than prevented enclosure. For the passing of the act, cf. *L.J.* I, pp. 26, 29, 30-5, 41, 42, 46, 47, 50. And cf. Henry VII's act, 4 H. VII c. 19.

<sup>5</sup> Cf. *L.J.* I, pp. 46-53, 56. Cf. below, p. 112, the Hunne scandal in 1514, and F. W. Maitland, *Roman Canon Law*, p. 89, papal declaration in the Lateran council against lay jurisdiction over churchmen. And cf. above, p. 52, the act of 1512 limiting benefit. The present bill passed the commons but was read once only at a meeting of the house of lords at which the majority attending was ecclesiastical (*L.J.* I, p. 31).

chamber and there determined upon by some members of each house.<sup>1</sup>

What mattered, however, was the subsidy. The only mention in the *Lords Journals* of the bill for it is on 21 December 1515, the day before the dissolution, when it is reported as being read for the first time and handed to them of the common house by the lord chancellor.<sup>2</sup> Anyway, it was passed; it recited how the commons learnt on 12 November 1515 by the certificates of the tax-commissioners that the sums payable on November 21 would not come up to the estimate, nor even exceed £45,638, and it enacted that the king should have the second subsidy payable in November 1516,<sup>3</sup> but that the powers given by that act to the chancellor, treasurer, speaker, etc. should be annulled, and that the sum of £110,000 there fixed should be completed by a fifteenth and tenth. That was the end for a long time of attempts at parliamentary taxation: a great deal of statute had very slowly produced very little money, and besides, the parliament of 1515 had been troublesome in other ways.<sup>4</sup>

John Tailer, Speaker of the Convocation and Clerk of the Parliaments, recorded that "In this Parliament and Convocation, the most dangerous Seditions arose, between the Clerical and Secular Power": it was mostly Fr. Standish's fault, he thought:<sup>5</sup> one of its results was no doubt to strengthen the tendency towards co-operation between the lay elements of the two houses.<sup>6</sup>

In 1521 Henry thought again of summoning a parliament, to deal especially with Buckingham and with the affairs of Ireland:<sup>7</sup> but it was

<sup>1</sup> *L.J.* 1, p. 44: cf. p. 135 below.

<sup>2</sup> P. 56: but I think *tradita* must clearly mean "handed back": cf. my next sentence.

<sup>3</sup> A combination of one or more fifteenths and tenths with one or more subsidies remained the regular form of lay taxation till 1626, though 1523 and 1555 were exceptions: cf. Tait (*Cheetham Soc.*, vol. LXXXIII), p. xxiv.

<sup>4</sup> For Hunne, and benefit of clergy, and Sir Rob. Sheffield, cf. pp. 112, 117 below, and for the Enclosures Act, p. 56 above.

<sup>5</sup> *L.J.* 1, p. 57. For Tailer, in various spellings, cf. p. 15 above.

<sup>6</sup> Cf. *L.J.* 1, p. 23, 15 Feb. 1515, treasurer and eight other lords deputed to treat and communicate with certain of the Lower House "super certis causis Temporalit. concernentes". And cf. incidentally p. 45, 16 Nov. 1515, bills agreed to by commons and not by lords before prorogation to be taken next Monday to Star Chamber, and there considered, whether to be admitted or annulled, by certain from both houses. And cf. below, p. 57.

<sup>7</sup> *L. and P.* III, no. 1204.

not actually called till 1523, and then the purpose was once more to provide a revenue necessitated by war. Already in 1522 the French war which he had undertaken

enforced<sup>1</sup> the King to make use of his subjects affections: whereof that he might take the better notice, he caused a General Muster or description to be made (this summer) of all his Kingdom, commanding (as *Stow*<sup>2</sup> hath it out of a warrant directed to a Constable of a hundred) that they should certify the names of all above sixteen years old; and that they should repair to a certain place assigned, with their Arms,<sup>3</sup> and declare what their names are, and to whom they belong, and who is Lord of every Town or Hamlet,<sup>4</sup> and who be Stewards, as also who be Parsons of the Town, and what their Benefice is worth, and who be owners of every parcel of Land within the said Precincts, and what is the yearly value of every man's Land, as also the Stock on the Lands, and who is owner thereof; also what strangers dwell there, and of what occupation they are; also the value and substance of every person being above sixteen years old, as well spiritual as temporal; also, what Pensions go thence to Religious or Spiritual men. Which being certified again, the King (as *Polydore* saith<sup>5</sup>) rejoiced, as finding his Kingdom so wealthy. Howbeit, as he was not ready yet for a Parliament, he borrowed of the citizens of *London* twenty thousand pound, and sent Privy Seals to divers other rich persons. . . .

This procedure "sore chafed the citizens,<sup>6</sup> but the sum was promised, and for the payment the Mayor sent for none but for men of substance. Howbeit the craft sold much of their plate. This sum was paid, and the king sent his letter promising payment of the same and so did the Cardinal. The poor men were contented with this payment and said, 'Let the rich churls pay, for they may well'. Like loan was practised through all the realm, and privy seals delivered for the repayment of the same". The experiences of 1514 and 1515 were ample evidence that

<sup>1</sup> Herbert, p. 132.

<sup>2</sup> *Annals* (edition of 1615), p. 516.

<sup>3</sup> Cf. p. 43 above.

<sup>4</sup> Cf. p. 44 above.

<sup>5</sup> I cannot find this, though no doubt it is there: but note Polydore's insistence, Bk. xxvii, pp. 168 ff. in the 1603 edition, under date 1522, on Henry's zeal against Lutheranism and against enclosing; this last might help to scare the tax-paying classes, especially the commission of 1521 to restore all enclosures of the last fifty years.

<sup>6</sup> Hall, I, p. 258.

when a large speedy addition to revenue was needed, parliamentary votes were not much help.

Thus the king had needed no one else's consent<sup>1</sup> to take a census of his kingdom and to demand exhaustive information about its personal and material resources, and in this way during 1522 and 1523 he did raise more than £350,000, and the loan was accounted for not in the exchequer but by Sir Henry Wiat, treasurer of the chamber.<sup>2</sup> Only he did fail apparently<sup>3</sup> to get from the magnates of the city full information about their financial position, and had to be content with "their valuation of themselves, upon their simple honesties". And in any case, such an elaborate survey of resources must scare many of the tenants of them,<sup>4</sup> and such loans, however pleasing at first taste to king and populace, could not be a staple diet. Musters and privy seals were expedients which were a sort of putting the best foot foremost that made it both more necessary and more difficult to move another foot too. So in 1523 a parliament had to be called, and had to be asked for money.

In this request the government had some advantages. The king was

<sup>1</sup> Though he had thought well to take counsel, and apparently had had some difficulties with legal opinion. On 17 July 1522 Sir Rob. Wingfield wrote to Wolsey that he had explained to the king Wolsey's zeal and energy, and the opinion of judge Pollarde, "and also what dexterity your grace used to defeat the said opinion, and what pain your grace hath also taken in ordering the new commission", and Wolsey's purpose to execute the same on the spirituality as on the temporality: *L. and P.* III, no. 2393. The assessment was made by a few persons in each county specially commissioned (e.g. no. 2615) who in some cases at least promised I.O.U.'s under privy seal (*ibid.*). The rate was 10 per cent. (no. 2640, Tait, p. xxv). Commissioners were to make returns by Easter (no. 2741). Recalcitrant persons might be summoned before the king and council (no. 3230), and after the grant of a subsidy the loan might be collected by "anticipation", and paid to the treasurer of the chamber (no. 3650). The star chamber was the central office for views and musters (nos. 3683-8).

<sup>2</sup> *L. and P.* IV, no. 214: between Michaelmas 1522 and 1 April 1523 the amount raised by loan was just on £230,000.

<sup>3</sup> Cf. Hall, I, p. 264, and Herbert, p. 132: it was in August that the valuation of the city was being attempted and a loan of a tenth to the king, though £20,000 had been borrowed there two months before. Note also that according to Hall the spiritual men successfully petitioned that no temporal men should be made privy to their possessions and goods.

<sup>4</sup> Especially as the previous year had been one of pestilence and dearth; Hall, I, p. 240. During 1522 and 1523 £352,231 were raised by forced loans, £42,000 less than the sum required for military purposes, Dietz, p. 94.

still popular, war with France was always popular, and at this time the desire to show the French their place was more than usually keen, partly because of their alliance with the Scots and with Richard de la Pole, partly for commercial reasons;<sup>1</sup> and, after all, it was eight years since a parliament had been asked for money, which might be reckoned a decent interval. Nevertheless, the crown's demands met very serious opposition.

Parliament met on 15 April 1523. Thomas More, who since 1521 had been a knight and sub-treasurer to the king, was elected speaker. His speech on taking office seems to be, if not a turning-point, at least a landmark in the process by which the king's special concessions to the commons became the house's formal privileges.<sup>2</sup> The earlier speakers' "protestation" had asked permission to amend any misreport of the commons' proceedings which they might have slipt into, and (before 1413) forgiveness for anything said which might appear to damage king or lords. More,<sup>3</sup> after the usual modest assertion that the office was above his powers, made the usual request that he might correct any errors into which he might fall, and then went on to argue that in all "courtes of Parliament" nothing is discussed which is not important, and that the best counsellors are not always the most skilled in expression, and accordingly to beg his majesty "to take all in good part, interpretinge every man's words...to proceed yeat of a good zeale towards the profit of your Realme and honour of your Royall person..."<sup>4</sup> The parliament roll<sup>5</sup> recorded only More's request that whatever he said in the name of the commonalty might be "under the protestation" that he might emend and correct and so entered on

<sup>1</sup> Cf. Brewer, I, p. 469; *L. and P.* III, p. ccccxI, translates an amusing contemporary account of Pole's adventures, especially at Metz.

<sup>2</sup> Cf. J. E. Neale in *Tudor Studies*, pp. 260-7: and n.b. his suggestion on the former page that the medieval litigant's right to amend his counsel's plea had something to do with the speaker's request for allowance to amend his report.

<sup>3</sup> If Roper reports him rightly (ed. J. R. Lumby, pp. x-xii). Roper goes on, after More's "protestation", "At this Parliament lord Wolsey found himself much grieved with the Burgesses thereof, for that nothing was so soon done or spoken therein, but that it was immediately blown abroad in every Alehouse". The whole question of freedom of speech looks quite different if the absence of publicity is borne in mind. Cf. *Henry VII*, pp. 112, 113 (Young's Case).

<sup>4</sup> Cf. below, p. 61, n. 1.

<sup>5</sup> Printed in *L.J.* I, p. lxxvi.

the roll: to which it was answered that he should "use and enjoy such Protestation" as other speakers had had.<sup>1</sup>

On April 29 Wolsey, with a train of lords spiritual and temporal, came<sup>2</sup> to the place where the commons were sitting, explained the causes of the war and the need of money (£800,000, he reckoned), and suggested the raising of a tax of four shillings in the pound on all lands and goods, payable in five years on the 1522 loan assessments. Next day More "enforced his demand strongly",<sup>3</sup> but there was a great deal of opposition, largely on the ground that there was not so much money, without counting the king's treasure, in the whole realm, that the king had recently raised great sums by loan, and that the collection of anything like what was proposed would reduce the whole country to barter: the commons appointed a committee to negotiate with Wolsey for a reduction of the royal demand, but "he currishly answered that he would rather have his tongue plucked out of his head with a pair of pincers, than to move the king to take any less sum: with which answer they, almost dismayed, came and made report to the commons house, where every day was reasoning, but nothing concluded. Wherefore the Cardinal came again to the common house,<sup>4</sup> and desired to

<sup>1</sup> Thos. Ynglefyld, speaker in Henry's first parliament, had asked that everything said, proffered and declared by him in the name of the commons might be "under such protestation . . . that if he should have declared anything enjoined on him by his aforesaid fellows of the Lower House otherwise than by their assent and unanimous consent, either by addition or admission, those things declared by his aforesaid fellows it might be permitted to correct and emend, and that this his protestation might be entered on the Roll of Parliament": to which it was answered by the chancellor at the king's command that he "should use and enjoy" such protestation as his predecessors: *L.J.* 1, p. 4. In 1511, "ut supra in prehabito Parlamento", *L.J.* 1, p. 11, and in 1514 practically identical again, p. 7.

<sup>2</sup> "In the usual way", says Stubbs, *Medieval and Modern History*, p. 313. Besides that work compare for all this paragraph Hall, 1, pp. 278 ff.; Roper, *Life of More* (ed. J. R. Lumby), pp. x ff.; Brewer, 1, pp. 469 ff.; Herbert, pp. 144 ff.

<sup>3</sup> Hall, 1, p. 285.

<sup>4</sup> Hall, 1, p. 286; Roper, pp. vii, xii, gives a different account, according to which More, who had already in Henry VII's time, as a young M.P., got himself and his father into trouble for defeating a royal proposal of taxation, persuaded the house to receive Wolsey "with a whole train royally", so that if he again, as he had once already, complained "of our tongues for things uttered out of this house", they should have a good defence: Roper goes on to narrate that More explained to Wolsey that "for them to make answer was it neither expedient, nor agreeable with the ancient liberty of the house", and that Wolsey was displeased with him for his



be reasoned withall, to whom it was answered that the fashion of the nether house was to hear, and not to reason but among themselves"; and, according to Roper,<sup>1</sup> Wolsey appealed particularly to various individual members who were in close relations with the government, but they would say nothing:

Then he shewed the realm to be of great riches, first because the king's customs were greater now than they were beforetime: also he alleged sumptuous buildings, plate, rich apparel of men women children and servants, fat feasts and delicate dishes, which things were all tokens of great abundance: with which repeating of men's substance, as though he had repined or disdained that any man should fare well, or be well clothed but himself, the commons greatly grudged. And when he was departed out of the house, it was proved that honest apparel of the commodities of this Realm, abundance of plate, and honest viands, were profitable to the realm, and not prodigal.<sup>2</sup>

conduct in this parliament. This account can hardly be reconciled with others: cf. *L. and P.* III, pp. cxxxxix, ccxli; III, no. 3267, Wolsey's letter to Henry (24 Sept. 1523) for an extra £100 for More because of his faithful diligence about the subsidy: More also got the speaker's ordinary fee of £100, and had already for some years enjoyed a pension of £100, Harpsfield, pp. 22, 317; A. F. Pollard, *Wolsey*, p. 133.

<sup>1</sup> *Life of More* (ed. J. R. Lumby, 1879), p. xiii.

<sup>2</sup> Hall, I, p. 286. John Hooker, first chamberlain of the city of Exeter, wrote: "In this parliament there was demanded a subsidy of 4s. the pound; whereat the most part of the lower or common house grudged and murmured; and no man spake more earnestly and effectually against the same than this Bridgeman [John, Burgess for Exeter along with John Noseworthie]. Which thing being made known unto the Cardinal, he sent for him and very sharply rebuked him for it; but he maintained his sayings, and at his next coming to the lower house, when the said bill was again read, he spake against it: but he had so little thanks for his labour, and being again most sharply rebuked that he never enjoyed himself, but returned to his lodging, where he fell sick and died". *Gleanings from the Common Place Book of John Hooker*, by W. J. Harte, p. 34, referred to by A. F. Pollard, *Wolsey*. Cf. also the speech (almost certainly by Cromwell) printed by R. B. Merriman, *Thomas Cromwell*, I, pp. 30-44, and its argument for speaking out—that the thing spoken might come through the Speaker's benign interpretation to the king's gracious ears: and its arguments against the proposed French expedition—the danger to the royal person and the succession, the difficulty of finding the money in a country whose capital value the cardinal estimated at £3,000,000 of which the speaker reckoned not more than £1,000,000 could be coin and bullion (incidentally remarking that we were never so well supplied with commodities manufactured and imported), the technical difficulties of military expeditions on the continent, and the much greater utility of annexing Scotland rather than conquering France.

And after long debating the commons "concluded to grant 2s. of the pound of every man's lands or goods, that was worth £20, or might dispend £20", from 40s. to £20 only 1s. in the pound, and a poll-tax of 4d. all to be spread over two years.

It is to be noted that the objections to the cardinal's demands were, first, the objection to all fiscal exactions, that they were excessive and would be uneconomically employed; and, secondly, the technical difficulty that there was not enough cash available. This second objection indicates one of the main sources of Tudor strength—that in an early stage of capitalism the monarchy was in a uniquely advantageous position for controlling capital; the king had much more cash than any one else, he was the creditor of many of his nobles,<sup>1</sup> the creation of money was his monopoly, he had great advantages for borrowing, and for using the devices then being evolved to supplement money with paper instruments. Along with this it may be noted that the standard of economic argumentation does not seem to have been much below what might be expected from a modern house of commons, and that both parties seem to have agreed that standards of comfort were rising.

No less remarkable than the arguments which were used are the arguments which did not present themselves. The commons refused indeed to debate with or in the presence of Wolsey and his train, but they did not complain of his visits nor allege that there was anything improper in his suggesting the amount and form of supply and endeavouring by authority and persuasion, not without reference to the generosity of the clergy<sup>2</sup> and the lords, to extort their consent.<sup>3</sup>

The debates went on "fifteen or sixteen days together", so "that the house was like to have been dissevered, that is to say, the knights being of the King's councill, the King's servants and gentleman..., which in so long time were spoken with and made to say Yea—it may

<sup>1</sup> Cf. Brewer, 1, p. 474; Dietz, pp. 24, 33, 85 ff., for Henry VII's lendings.

<sup>2</sup> The convocations had granted from each benefice half of one year's income, to be paid in five years.

<sup>3</sup> Nor did they complain of his treatment of Bridgeman as an infringement of their privileges.

fortune, contrary to their heart, will, and conscience"—on the one side:<sup>1</sup> and on the other side the rest of the commons.

The party above described was the first to make a grant:

a knight called Sir John Hussey<sup>2</sup> of Lincolnshire said, to please the Cardinal somewhat, let us gentlemen of fifty pound land and upwards give to the king of our lands twelve pence of the pound, to be paid in three years: with which motion divers gentlemen were sore discontent. And when the question was asked, ten or twelve of the gentlemen said yea, and when the nay should be asked the commons<sup>3</sup> said nothing, for they would not condemn nor let<sup>4</sup> the gentlemen to charge themselves, and so by ten or twelve persons the gentlemen were burdened with a shilling more than others.<sup>5</sup>

On 21 May 1523 parliament was prorogued till June 10; during the interval there was opportunity for the display of discontent (it was commonly supposed that a general confiscation of property was intended)<sup>6</sup> and the burgesses had from the common people "many evil words and threatenings". When parliament re-assembled the landed men, naturally,

movéd that all such as were worth fifty pound in *goodes* and upward, should pay also twelve pence in the pound, in the fourth year. At the which motion was much reasoning, and at the last, the 27th day of June, the question was asked, and doubtful it was whether the yea or nay were most; then was the house divided, and all the commons severed themselves from the knights of the shires, so that on the yea part remained only the knights of the shire, and the commons stiffly affirmed that these motioners of this demand were enemies to the realm. At the last the Speaker called them all together, and after long persuading

<sup>1</sup> From a letter to the earl of Surrey, lieutenant in the north, from a follower of his, who was M.P., *L. and P.* III (Introduction), p. ccxlviii, from Hy. Ellis, *Original Letters*, series 1, vol. 1, p. 220.

<sup>2</sup> In the royal service since 1486, in 1521 chief butler of England, in 1529 summoned to the house of lords, in 1537 executed for complicity in the Pilgrimage of Grace: cf. *D.N.B.*

<sup>3</sup> I.e. the burgesses.

<sup>4</sup> I.e. prevent.

<sup>5</sup> Hall, I, p. 287. But the act as finally passed put in the fourth year 1s. in the pound on personals worth £50 or more: *S.R.* III, p. 231, and cf. Tait, p. xxv, and below p. 65, n. 3.

<sup>6</sup> Cf. Brewer, I, p. 480.

and privy labouring of friends, it was agreed that twelve pence of the pound should be paid the fourth year, of fifty pounds in goods.<sup>1</sup>

In its final shape, the Subsidy Act<sup>2</sup> stood as follows:

For the first and the second year a rate of 5 per cent. was imposed on all lands and goods of the value of £20 and upwards; 2½ per cent. on goods between £20 and £2; and 1⅓ per cent. on goods of 40s., or on yearly wages averaging 20s. In the third year 5 per cent. on all land of £50 and upwards; and in the fourth or the last year, 5 per cent. on personal property of £50 and upwards.<sup>3</sup>

These financial details are tedious and not very important: what is important is that the government's financial project met with great opposition in the house of commons and in the country, opposition which might without much difficulty turn into rebellion;<sup>4</sup> that there was a government party in the house of commons, mostly among the knights of the shire, between whom and the burgesses there was a distinct cleavage; that the government did not stiffly stand by its first demand, still less run away from it, but made use of the parties among the commons, compromised, persuaded, cajoled and lobbied, till it got rather less indeed than it had asked but enough for honour and convenience. It is important also that Wolsey, in his speech as chancellor proroguing parliament and thanking lords and commons for the subsidy, gave his assurance that "his Grace [the King] shall in such wise employ the said subsidy and loving contribution as shall be to the defence of his realm and of you his subjects, and the persecution and

<sup>1</sup> Hall, I, p. 288.

<sup>2</sup> 14 and 15 H. VIII c. 16, the preamble still insisted on Henry's wrongs from France and his obligations to the Pope's Holiness.

<sup>3</sup> Brewer, I, p. 481: "goods" included coin, and debts due to the tax-payer, which "shows society in a more advanced economic condition". In the Salford Hundred only five wage-earners were charged, and the total charge on the hundred was probably about £200 or rather less. the attempt to tax wages was abandoned before 1550: Jas. Tait (Clieatham Soc. 1924), *Taxation in the Salford Hundred*, pp. xxv, xxvi.

<sup>4</sup> Surrey's correspondent (cf. p. 64 above) beseeched "Almighty God it may be well and peaceably levied and surely paid unto the King's grace without grudge and specially without losing the good wills and true hearts of his subjects, which I reckon a far greater treasure for a king than gold or silver; and the gentlemen which must take pain to levy this money among the King's subjects, I think, shall have no little business about the same".

pressing of his enemy; for the attaining of good peace, recovering of his rights, and redress of such injuries as hath been done to you his loving subjects, in time past".<sup>1</sup> Thomas Cromwell (who was, in modern terms, a prominent private member in this parliament) summed it up thus: "we have done as our predecessors have been wont to do; that is to say, as well as we might, and left where we began... We have in our parliament granted unto the King's highness a right large subsidy, the like whereof was never granted in this realm".<sup>2</sup> Finally, for his services as speaker in this important business, More received from the king, at Wolsey's suggestion, £100 more than the usual fee,<sup>3</sup> and a year later he was promoted to the chancellorship of the duchy of Lancaster.

In spite of the loan of 1522 and the parliamentary grant of 1523,<sup>4</sup> already in 1524 policy was being affected by want of money, and England abstained from active military operations:<sup>5</sup> Wolsey, no lover of parliaments, found there one motive for desiring peace; but he did

<sup>1</sup> Quoted in Brewer, I, p. 489.

<sup>2</sup> 17 Aug. 1523, Merriman, I, p. 313; the sentence before the one quoted runs, "...by long time I amongst others endured a parliament which continued by the space of sixteen whole weeks where we communed of war peace strife contention debate murmur grudge riches poverty penury truth falsehood justice equity deceit oppression magnanimity activity force temperance treason murder felony... and also how a commonwealth might be edified and also continued within our realm".

<sup>3</sup> *L. and P.* III, no. 3270: A. F. Pollard, *Wolsey*, p. 133 n., refers also to nos. 3291 and 3363: cf. the letters referred to and copied by R. W. Chambers, *Harpfield*, pp. 320-1.

<sup>4</sup> The first payment of the new tax was not due till Feb. 1524, but in the previous autumn commissions were issued for its collection, and "This payment was called an Anticipation... [III, no. 3504, 2 Nov. 1523, the commissions for collecting by anticipation]. This term was new to the commonalty, but they paid well for their learning, for their money was paid out of hand without delay", Hall, I, p. 316: but on the last point, Dietz, p. 94, says the Anticipation (which was paid into the Chamber not the Exchequer) was a failure, and refers to *L. and P.* III, no. 3433, Wolsey to Henry 17 Oct. 1523 asking for £10,000 which shall be returned as soon as possible, and urging the absolute necessity of money for current public affairs although he had done everything possible to bring in whatever was leviable: there were certainly difficulties in collecting money in Wiltshire (IV, no. 122, 27 Feb. 1524) and actual resistance in Yorkshire (IV, nos. 377, 378, end of May, refs. A. F. Pollard, *Wolsey*, p. 134 n.). In Dec. 1523 (Hall, I, p. 318) there were three men hanged at Coventry for planning to seize "the King's treasure of his subsidy" on its way to London "and then to have made battle against the king".

<sup>5</sup> On 6 Dec. 1523 came the news of Wolsey's second failure in the papal election and of Clement VII's success: cf. A. F. Pollard, *Wolsey*, p. 137.

not get it, and in 1525 he was driven to the expedient which came to be called an Amicable Grant.

The tax-paying classes had contributed more largely than ever before to the enterprises of government, had borne almost all the expenses of the 1522 and 1523 campaigns, and had already shown their capacity for opposition. The same classes that paid taxes provided also tax-collectors.<sup>1</sup> The house of commons was essentially the organ of that class. It is no wonder then that Wolsey, to whom money was urgently necessary if advantage were to be taken of France's defeat at Pavia,<sup>2</sup> looked about for some extraordinary source of revenue which should not be parliamentary. The plan he hit on was a forced loan on a new excuse: the excuse was not bad, but nothing could have made the loan agreeable, especially as Henry had not maintained his father's distinction between forced loans, which had been always repaid, and benevolences, which had not.<sup>3</sup>

The new plan was an attempt to revive the old feudal obligation to aid the king when he went to war; literally the *king* when he *went* to war, not just the government when it incurred military expenditure.<sup>4</sup> On this ground the council demanded that "the sixth part of every man's substance should without delay be paid, in money or plate":<sup>5</sup> and commissions were sent in March 1525 to the greatest men of every shire to collect it. Wolsey, as chief commissioner for London, sent for the mayor and leading men of the city, and made them a long speech, insisting on the perfidy of Francis and the necessity for war, ending up with the question whether they "thought it convenient, that the king should pass with an army or not, for the king will do by the advice of his subjects; to the which many said yea, yea".<sup>6</sup>

Having adroitly elicited so much assent, the cardinal went on to argue

<sup>1</sup> Cf. e.g. p. 65, n. 4: the members of parliament appointed the collectors, against whose demands there was an appeal to two justices of the peace (cf. *S.R.* III, p. 197, A.D. 1515).

<sup>2</sup> 24 Feb. 1525.

<sup>3</sup> Dietz, p. 163.

<sup>4</sup> *L. and P.* IV, nos. 1200, 1284, App. 34.

<sup>5</sup> Hall, II, p. 32.

<sup>6</sup> Hall, II, p. 35: the news of Pavia reached England on March 9, and on the 21st commissioners were appointed, A. F. Pollard, *Wolsey*, p. 140.

that for such an occasion a half of each man's substance would not be an excessive contribution, at least from those who were not venturing their persons: yet the king would not ask more than one-sixth from every fifty pounds and a smaller proportion from smaller estates, and would accept their own valuation which they themselves had made in 1523. Against this, as may be imagined, there were objections enough, to which the most Wolsey would concede was that the money must be collected but the king would not use it if he did not go overseas: and, according to Hall, he not only threatened the lives of the aldermen but also in the course of continued efforts to persuade various commoners sent some of them to prison.<sup>1</sup> For the unprecedented payments which he was demanding Wolsey had invented the name *Amicable Grant*,<sup>2</sup> but he did not succeed in giving any reality to the words.

The clergy were even less amenable than the citizens; "they would pay nothing, except it were granted by Convocation, for they said that never king of England did ask any man's goods but by an order of the law. This infamy was spoken, in preachings and everywhere"; and in general, "When this matter was opened through England, how the great men took it was marvel, the poor cursed, the rich repugned, the light wits railed, but in conclusion, all people cursed the Cardinal and his co-adherents as subversors of the Laws and liberty of England.

<sup>1</sup> Hall, II, p. 36: cf. Hy. Ellis, *Original Letters*, series 3, vol. 1, p. 370 (summarised *L. and P.* IV, no. 1235), Warham, as the leading commissioner in Kent, to Wolsey, 5 Apr. 1525—good towardness in some to contribute to the king's voyage and great untowardness in others, how he got them not to dissent from the assessment, but doubted whether it would be as easy to get them actually to pay "specially where other grants of the Parliament be now payable", great grumbings, doubts of the commissioners, the complaint that "the Loan is not repaid to them upon the first receipt of the grant of Parliament as it was promised them by the commissioners". *L. and P.* IV, App. 34—instructions to Warham to practise an amicable and loving grant with the spiritual persons of his diocese, if it is a success it is the last demand which the king intends to make of his people. Ellis, 3, I, p. 376 (*L. and P.* IV, no. 1235), Norfolk to Wolsey, 1 Apr. 1525, and IV, App. 36, Apr. 10—the great difficulties he met with, but the grant was going to do better than the loan. IV, no. 1260—similar letter from Suffolk, who further wishes to know what authority the collectors shall have if any person denies payment of the sum he has granted: the gentry are all very diligent and have deserved great thanks. Cf. also nos. 1243, 1266, 1267, 1305, 1306, 1311, 1321, 1323, 1330.

<sup>2</sup> IV, no. 1261, Wolsey to Norfolk, 11 Apr. 1525.

For they said, if men should give their goods by a Commission, then were it worse than the taxes of France,<sup>1</sup> and so England should be bond and not free". The commissioners themselves were by no means enthusiastic, and constantly excused the people to Henry<sup>2</sup> and Wolsey. In some places contributions were offered to the commissioners at a smaller rate than had been fixed; but Wolsey would abate nothing; yet "the demand could not be assented to", the commissioners found neither cajolings nor threatenings effective,<sup>3</sup> and "in all the realm were bills set up. Some bills said, that the king had not paid that he borrowed: Some said that the Subsidy amounted treble more than he had bestowed: Other said, whatsoever was granted no good came of it: And other said that the Cardinal sent all the money to Rome".<sup>4</sup>

This last was clearly a baseless calumny, and indeed Wolsey bore the whole brunt, most undeservedly: it was not he who wanted war, but the king and the great lords<sup>5</sup> (and, no doubt, many of the common people too, though they did not want to pay for it): the cardinal was simply the man to whom the king looked to do his business, and the business now was raising money. If it could not be raised his master would make him suffer for the failure, and whether it could or not he would be left to bear the unpopularity and to pay whatever price that might involve.

So now Wolsey represented to the king how impossible it was to collect the fixed and forced contribution which had been aimed at and induced him to declare his willingness to accept voluntary offerings, a benevolence, instead: but this relaxation of demand did not produce acquiescence, nor was Wolsey to escape the odium of the whole attempt.<sup>6</sup>

<sup>1</sup> Cf. above, p. 30.

<sup>2</sup> Cf. Dietz, p. 96.

<sup>3</sup> Cf. Abp. Warham's evidence about Kent, quoted by Brewer, II, p. 51 and references in n. 2: also Brewer, II, p. 52, opposition of the clergy, p. 53 of Cambridgeshire, p. 54 what happened at Norwich: *L. and P.* IV, no. 1324, Wolsey's thanks to Norfolk and Suffolk for reducing the rebellion at Lavenham, and promise that they shall hear further from the king's temporal counsel. Cf. A. F. Pollard, *Wolsey*, pp. 140 ff.

<sup>4</sup> Hall, II, p. 37.

<sup>5</sup> Brewer, II, p. 50.

<sup>6</sup> Brewer, II, p. 57.



It was in April 1525 that the assessment was dropped,<sup>1</sup> and according to Hall the king said "he never knew of that demand":<sup>2</sup> at any rate, public opinion attributed it to Wolsey: but even so the monarchy did not get off scatheless; for when the aldermen reported to the cardinal that they had assembled their wards "and gently moved them of a benevolence",<sup>3</sup> but without success, then he told them that they had no commission to act so, but that he himself would examine them one by one; and

then was it answered to the Cardinal, by a councillor of the city,<sup>4</sup> that by the law there might no such benevolence be asked nor men so examined, for it was contrary to the statute made in the first year of King Richard III. . . the Cardinal heard this saying very patiently and answered: Sir, I marvel that you speak of King Richard III, which was a usurper and a murderer of his own nephews: then, of so evil a man how can the acts be good? make no such allegations, his acts be not honourable. An it please your Grace, said the councillor, yet in his time were many good acts made, not by him only, but by the consent of the body of the whole Realm which is the parliament.<sup>5</sup>

After more wrangling Wolsey could keep his demand no higher than that each man should come separately before him and grant privately as much as he chose. That meant that there was no compulsion, and practically it was the end of the project.

No more successfully than in London had the business been managed in the country. There was organised resistance, merging into rebellion,

<sup>1</sup> And peace was concluded on Aug. 30: A. F. Pollard, *Wolsey*, p. 148, who adds that Wolsey now accepted a secret present of 100,000 crowns from the queen-regent of France (clearly secret, because of his terror in Oct. 1529 lest it should be revealed to Henry). Next year Wolsey advised her not to observe the treaty extorted from her son, and Clement VII absolved him from his oath, and "all Italy rejoiced at this striking illustration of Machiavelli's chapter 'How far princes should keep faith'". Armstrong, *Charles V*, I, p. 164. See also *Wolsey*, p. 257; *Bulletin of the Institute of Historical Research*, VII, p. 89.

<sup>2</sup> Hall, II, p. 38.

<sup>3</sup> Hall, II, p. 40.

<sup>4</sup> Brewer (II, p. 58) thinks that this was Hall himself.

<sup>5</sup> "Then Sir Wm Bayly lord mayor kneeled down and besought his grace [Wolsey] that sith it was enacted by the Common Counsaill of London that every alderman should sit in his own ward for a benevolence to be granted, which he perceived to be against the law, that the same act by the same common counsaill might be revoked and no otherwise: well, said the Cardinal, I am content" (Hall, II, p. 40).

in Kent, the Eastern Counties, and Lincolnshire. The dukes of Norfolk and Suffolk managed to disperse the rebels in their counties without bloodshed but not without trouble:<sup>1</sup> "then the demand of money ceased in all the realm, for well it was perceived that the commons would none pay".<sup>2</sup>

When the two dukes had brought to London "the chief captains of the rebellion", the king

assembled a great counsaill, and openly he said that his mind was never to ask anything of his commons which might sound to his dishonour or to the breach of his laws; wherefore he would know of whom it was long,<sup>3</sup> that the commissions were so strict to demand the sixth part of every man's substance. The Cardinal excused himself, and said that when it was moved in counsaill how to make the king rich, the King's Counsaill, and especially the Judges, said he might lawfully demand any sum by Commission, and that by assent of the whole Counsaill it was done, and took God to witness that he never maligned nor desired the hindrance of the commons, but like a true counsailer, devised to enrich the king; and the spiritual men say that it standeth with God's law for Joseph caused the king of Egypt to take the fifth part of every man's goods; but because every man layeth the burden from him, I am content to take it on me, and to endure the fame and noise of the people, for my good will towards the king, and comfort of you, my lords, and other the king's counsailers; but the eternal God knoweth all.<sup>4</sup>

Last of all, "the lords sat in the Star chamber, and thither were brought... the chief of the rebels", and after they had been "shown their offences, with terrible words", they were granted the king's pardon, the cardinal and the duke of Norfolk standing as sureties for the good behaviour of some of them. Perhaps the English government was not unmindful that "in this troublous season the uplandish men of Germany, called the bowres,<sup>5</sup> rose in a great number, almost an hundred thousand, and rebelled against the princes of Germany".<sup>6</sup>

<sup>1</sup> Cf. Hall, II, pp. 41 ff. Note especially how the forces collected by Suffolk were "but a small number, and they that came to him said that they would defend him from all perils, if he hurt not their neighbours, but against their neighbours they would not fight".

<sup>2</sup> Hall, II, p. 43.

<sup>3</sup> Cf. "It wasn't my fault, it was all along o' Bert".

<sup>4</sup> Hall, II, p. 44: my punctuation and my spelling, except for *counsaill*, *counsailers*. *Bauern*, peasants.

<sup>6</sup> Hall, II, p. 46.

From all this it is clear that even in early sixteenth-century England there could be a public opinion that was real and articulate on the comparatively rare occasions when public affairs came home to the bosoms of ordinary men, and awoke the same echo in all of them. Direct taxation was such an affair: it directly and plainly affected a larger fraction of the population than now, and economic-political education went far enough for even those who were only indirectly affected to be aware of it. This public opinion had not, it is true, all the modern engines for resisting government; but then neither had government all the modern engines for driving or suppressing it. It has been seen how government had to rely on more or less voluntary co-operation for the work of assessment and collection, and how, when this co-operation proved unsuccessful, it had to rely on the same or similar co-operation for quelling disorder<sup>1</sup> and getting out of the mess. Most noticeable of all is the extent to which government proceeded by discussion and persuasion even when its discretion kept it out of the parliamentary way: this appears most clearly in Wolsey's debates with the Londoners, but other commissioners were using similar methods in their localities. It appears also in the use made of the Star Chamber: that was the place where the council met publicly, and it was convenient for exemplary punishment or rebuke: it was used also, as none but a personal government with a right of its own could have used it, for concession: "Well, said the king, some have informed me that my realm was never so rich and that there should never trouble have risen of that demand, and that men would pay at the first request, but now I find all contrary. Then every man held his peace. . . . Then the king said, I will no more of this trouble, let letters be sent to all shires that this matter no more be spoken of; I will pardon all them that have denied the demand, openly or secretly".<sup>2</sup>

<sup>1</sup> Cf. especially p. 71, n. 1 above.

<sup>2</sup> Hall, II, p. 44. The next financial enterprise of the government was the attempt in 1526 to overhaul the coinage: Wolsey was in charge, and the main object was to equate the metal values with those of foreign currencies: the first steps were the revaluation of gold coins at 22s. to the sovereign and the issue of a new coin called the Crown of the Rose at 4s. 6d.: but in the following months the scheme was recast by a committee of experts, and then the sovereign (240 grs. of standard gold) was valued at 22s. 6d.: a new coin called the George Noble was the first English coin to

It was not often that the Star Chamber was so used to declare government's retreat, a change of policy in deference to public opinion, but it was used very frequently to give directions for administration and explanations of policy. There were regular allocutions for this purpose at the end of every term,<sup>1</sup> there were allocutions at other times also as occasion might suggest, as on 6 July 1522, when Wolsey expounded how "of necessity the king is entered into war, for no prince will suffer the wrong that the French king offereth him":<sup>2</sup> or again five years later when the cardinal congratulated himself and every one else on the peace with France.<sup>3</sup>

But meanwhile it is necessary to get back to ecclesiastical developments; they were to be the main business of the reign, and already before the date at which the above paragraphs have arrived the way in which ecclesiastical considerations were to influence, even to dominate, aims and methods of government was beginning to show itself. On 12 April 1525 archbishop Warham, writing<sup>4</sup> as chief Kentish commissioner for the Amicable Loan, to Wolsey, advised that it would be well to proceed in that business no further "till this great matter of the King's grace be ended... It hath been thought good policy in times past not to broach too many matters of displeasure at once".<sup>5</sup>

bear St George and the Dragon: other coins of this series are the first to have the rose mark, the motto *Rosa sine spina*, and Roman lettering: G. C. Brooke, *English Coins*, pp. 175-6, and cf. p. 387 below.

<sup>1</sup> A. F. Pollard (*E.H.R.* xxxvii, p. 519) says that Henry VIII, unlike James I and Charles I, preferred to address parliament, but this was certainly not the case in the first half of his reign.

<sup>2</sup> Hall, I, p. 263.

<sup>3</sup> Hall, II, p. 105: cf. p. 89 below.

<sup>4</sup> The letter (*L. and P.* IV, no. 1263) is quoted by Brewer, II, p. 53. It had been rumoured in Rome as early as Sept. 1514 (*L. and P.* I, edn. 1920, no. 3206) that the king of England "wishes to dissolve his own marriage. From the Pope he will obtain what he wishes, as France (Louis XII) also did with" Alexander VI in 1498.

<sup>5</sup> Brewer, II, p. 53.

## CHAPTER V

### FIDEI DEFENSOR

The great matter of the rest of Henry's lifetime was to be the ridding himself of Catharine of Aragon, and the differences which that made in his relations to church and realm, and in the relations of the two to each other. To understand this great matter it is necessary first to glance at the earlier history of the church in Henry's reign, and at the earlier history of his marriage.

Almost immediately after his accession, Henry VIII, "not understanding the Law of God, espoused the said lady Katharine, . . . the which marriage was dispensed with by Pope July, . . . contrary to the opinion of all the Cardinals of Rome, being divines. This marriage of the brother's wife was much murmured against, in the beginning, and ever more and more, searched out by learning and scripture. . .".

Such is Hall's account,<sup>1</sup> but then Hall wrote to glorify Henry and the revolution that he made. For our purposes, the circumstances of the marriage (if marriage it was), and the reasons for wanting to be done with it, matter much less than the intensity of the want and the results which it produced: nevertheless, the preliminary history of the "divorce" throws so much light on the ideas and materials of contemporary law and government that it is useful to summarise as much of it as is fairly definite and not too controversial.

On 15 November 1501 Arthur prince of Wales was married to Catharine of Aragon, daughter of Ferdinand and Isabella. The bridegroom was a sickly boy of fifteen years old, and within five months he died. His father, however, was unwilling to surrender Catharine's dowry and the other advantages which she brought, and accordingly, after a good deal of negotiation, on 25 June 1503 he betrothed his widowed daughter-in-law to his second son, who was just twelve years old.

The negotiations were difficult, not only because the parents of the

<sup>1</sup> Hall, I, p. 4.

parties were worldly-wise monarchs, each determined that since the alliance needed renewal its second form should be at least not less profitable than the first, but still more because there were ecclesiastical obstacles. And even to call them *ecclesiastical* is to beg a great question: were they not rather divine? Here were raised in the spiritual sphere the same problems of the nature and scope of law, the whereabouts and indeed the possibility of sovereignty, which were latent in the political arrangements<sup>1</sup> also of the later Middle Ages and for whose solution (or masking) no technique had yet been evolved.

In spirituals as in temporals there was Law and there were laws, the statutes of the church. The latter could be valid, clearly, only in fulfilment of the former, and occasions might arise when their literal and unqualified enforcement would have the contrary tendency, would be preposterous: for each private man to judge of such occasions would involve an ecclesiastical anarchy which might lead to moral dissolution: therefore it was convenient there should be some agency of dispensation, and natural the Supreme Pontiff should be the head of it.

Headship did not necessarily involve sovereignty nor even the possession of plenipotentary authority, whether over the dispensing power or over the church in general: perhaps the church could by some other organ correct or supplement the pope. The fifteenth century had seen a great struggle over this question, a struggle which had left the pope in possession: but it had not decided the question, and it was a question relevant to the doubtfulness of Henry's marriage with his brother's widow.

"If a man shall take his brother's wife, it is an unclean thing: he hath uncovered his brother's nakedness; they shall be childless."<sup>2</sup> That was the law of Moses, which nobody doubted to be the law of God. Could the law of God be dispensed with? or could this particular piece of it be so interpreted as not to oppose the marriage of Henry and Catharine? and anyway, for these and other purposes, which had the higher authority—a pope, who might say he was the head of the church, a council, which might say it was the church, the church in corporate action? These were great questions: no wonder Julius II hesitated

<sup>1</sup> Cf. *Henry VII*, pp. 4, 133, 162–6.

<sup>2</sup> Leviticus xx. 21.

when in 1503 Henry VII applied for a dispensation for the marriage, and replied that it was "a great matter, nor did he well know, *prima facie*, if it were competent for a pope to dispense in such a case";<sup>1</sup> the more since it appears<sup>2</sup> that a general council had pronounced that a council could not so dispense. However, the petitioners were no ordinary supplicants, popes are no more inclined than other men to narrow views of their own competence, the dispensation was granted, Catharine's confessor (who had been insinuating doubts) was recalled, Ferdinand himself combated the scruples of his substitute son-in-law, the betrothal was celebrated,<sup>3</sup> and a few weeks after his accession Henry VIII married Catharine.

Catharine was a woman of much courage, magnanimity, kindness, and loyalty, but unintelligent and indiscreet: these faults might not have mattered very much; her excessive intimacy<sup>4</sup> with her confessor, if it could not altogether avoid scandal, might escape jealousy; in writing to her father she might have continued to call the English realm "these kingdoms of your highness"<sup>5</sup>, might have continued to be too successful and too complacent a competitor in manly fields,<sup>6</sup> and yet (even if the king had not gone on "adoring" her, "and her highness him"<sup>7</sup>) they might at least have put up with each other well enough; but she had one defect beyond forgiveness: the Tudor ill-luck about making a family was with her aggravated into an odious sequence of

<sup>1</sup> *L. and P.* iv (3), no. 5773, p. 2576.

<sup>2</sup> From B.M., M.S. Vit.B. xi, 108\* abstracted as no. 5376, *L. and P.* iv, and referred to by A. F. Pollard, *Henry VIII*, p. 174.

<sup>3</sup> A. F. Pollard, *Henry VIII*, p. 174.

<sup>4</sup> Friedmann, *Anne Boleyn*, i, p. 20.

<sup>5</sup> *L. and P.* i, no. 368 old, 127 new.

<sup>6</sup> Brewer (i, p. 30) says that she was "the soul of the enterprise" which triumphed at Flodden: when Henry sent to England the Duc de Longueville, captured at Guinegate, she sent to him three Scotch prisoners, saying that it was no great thing for a man to capture another but that here were three men made prisoners by a woman (R. Brown, *Venetian Calendar*, II, p. 139, referred to by P. Friedmann, *Anne Boleyn*, i, p. 32): she also sent to Henry "the piece of the King of Scots' coat which John Glyn now bringeth. In this your grace shall see how I can keep my promise, sending you for your banners a King's coat" (*L. and P.* i, no. 4451 old, 2268 new, quoted by Brewer, i, p. 46): perhaps Henry's rivalry was not much appeased by her persuasion that the victories at Flodden and Théroutanne were "all owing to the King's piety" (*L. and P.* i, no. 4417 old, 2200 new, quoted by Brewer, i, p. 45).

<sup>7</sup> Her confessor's expression in 1510: cf. A. F. Pollard, *Henry VIII*, p. 175.

dreadful little tragedies. Seven months after marriage she bore a daughter, dead: the English thought it an evil omen but Henry, she thanked God for such a husband, took it cheerfully.<sup>1</sup> A year later she was delivered of a son, and within two months he died: in September 1513 there was another, in June 1514 another, both dead as soon as christened. It was not strange if some began to remember Leviticus, and if it was a coincidence it was an ominous one that the first rumours of Henry's intention to rid himself of Catharine synchronised almost exactly with the demand of a legateship for Wolsey.<sup>2</sup>

Political vicissitudes joined their influence to that of domestic disaster. Catharine had been formally accredited as her father's representative "in these kingdoms", and the failures of the ambassador weakened the position of the wife; so that when in 1514 Henry quarrelled with Ferdinand, the possibility that the marriage might be broken began to be worth discussing in diplomatic correspondence.<sup>3</sup> Towards the end of that year Catharine's fourth son was born, prematurely, dead.

In February 1516 Mary was born, and seemed likely to live: Henry, overjoyed, told the Venetian ambassador "we are both young; if it was a daughter this time, by the grace of God the sons will follow".<sup>4</sup> In August 1517 Catharine was reported to be again pregnant "but (says her husband's biographer) nothing more is heard of the matter, and it is probable that about this time the Queen had various miscarriages".<sup>5</sup> In November 1518 another child was still-born, the last of Catharine's children. The Venetian ambassador reported great public vexation at this latest mortality and believed that if it had happened a little earlier, Mary would not have been betrothed to the Dauphin, "as the one fear of England was lest it should pass into subjection to France through that marriage";<sup>6</sup> and indeed within

<sup>1</sup> A. F. Pollard, *Henry VIII*, p. 175.

<sup>2</sup> *L. and P.* II, nos. 3284 and 3206, pp. xviii and xxi: no. 3206 is the same reference as that in note 2. Cf. A. F. Pollard, *Wolsey*, p. 19 n.

<sup>3</sup> *Venetian Calendar*, under date 1 Sept. 1514, II, p. 188, referred to by Friedmann, I, p. 47.

<sup>4</sup> *Venetian Calendar*, II, p. 691, quoted by A. F. Pollard, *Henry VIII*, p. 177.

<sup>5</sup> A. F. Pollard, *Henry VIII*, p. 177.

<sup>6</sup> *Venetian Calendar*, II, p. 1103, quoted by A. F. Pollard, *Henry VIII*, p. 177.



half a year or so the transfer of her hand to the Emperor Charles was in treaty.<sup>1</sup>

There was another effect of the cooling of the amity with France; this was the return, late in 1521 or early in 1522, of the English who had been at the French court, among them Anne Boleyn, then eighteen or nineteen years old.<sup>2</sup> How soon she began to attract the attention of the king cannot be exactly determined: perhaps the extremity of the king's displeasure ("intolerable" as the duke of Northumberland told his son, "for any subject to sustain")<sup>3</sup> at her engagement to lord Percy arose merely from his anxiety that, to meet the exigencies of Irish politics, she should be married to the native claimant of the Ormonde earldom;<sup>4</sup> perhaps the royal favours which almost immediately after her appearance at court began to accumulate on her father were owing not to her but to her sister Mary, who appears to have been the king's mistress.<sup>5</sup> At any rate, it is very likely that by 1524 Henry was firmly intending to be rid of Catharine; in the middle of 1526 he was allowing his servants to remind him that "the queen's grace hath been long without children; and albeit God may send her more children, yet she was past that age in which women most commonly are wont to be fruitful", and about the same time his son by Elizabeth Blunt was made duke of Richmond (the title Henry's father had borne before his accession) and Lord High Admiral, with precedence before all the nobility and even the princess Mary;<sup>6</sup> and early in 1526 at latest, Henry knew whom he wished to be Catharine's successor.<sup>7</sup>

<sup>1</sup> Brewer, I, p. 326.

<sup>2</sup> According to Friedmann she was born in 1503 or 1504: Brewer and Gairdner, 1507.

<sup>3</sup> Cavendish, *Wolsey* (Temple Classics), p. 43: "Son, quoth he [on the same occasion] thou hast always been a proud, presumptuous, disdainful, and a very unthrift waster, and even so hast thou now declared thyself".

<sup>4</sup> Friedmann, I, p. 42.

<sup>5</sup> So, certainly, was Elizabeth Blunt.

<sup>6</sup> Brewer, II, p. 102. Cf. *D.N.B.*—7 June 1525 K.G., 18 June 1525 earl of Nottingham and duke of Richmond and Somerset and lieutenant-general north of Trent, 16 July 1525 lord high admiral, and warden-general of the marches, June 1529 lord-lieutenant of Ireland and constable of Dover, May 1535 warden of the Cinque Ports.

<sup>7</sup> "For above a whole year", he wrote to Anne early in 1527, he had been "struck with the dart of love".

It has already been seen how the urgency of "the great matter" had been one of the arguments for dropping the Amicable Loan in the spring of 1525:<sup>1</sup> by the autumn of 1526 it was already beginning to be the familiar affliction of the king's principal servants; Clerk, bishop of Bath, ambassador in France, wrote to tell Wolsey how he had seen Clement VII's chief confidant, and how he feared that there would be great difficulty "about this blessed divorce" though everything else seemed plain sailing.<sup>2</sup>

*Divorce* was a misnomer: in the Roman Church marriage was a sacrament, and could not be dissolved. But there were many reasons which might make a marriage impossible, and even after a marriage had been, to the eye of common sense, celebrated and consummated and accepted, the establishment of such reasons might obtain from ecclesiastical authority a declaration that what had for years seemed to be a marriage was in fact never anything of the sort. Such declarations were not unusual. Henry's brother-in-law Suffolk, having married a lady under papal dispensation, was allowed later on to put her away on the ground of its invalidity, and in May 1528 (when "the great matter" was at its crisis) obtained papal censures against any one who should slander his second and subsequent marriages.<sup>3</sup> In March 1527 Henry's sister Margaret of Scotland was allowed to break her marriage with Angus on the shakiest grounds, among others, that she believed James to have been still alive three years after Flodden. Henry's request, then, was ordinary enough: on the other hand, the fulfilment of such requests did not ordinarily involve pronouncing that an emperor's aunt had been for eighteen years living in sin. Diplomatic considerations affected ecclesiastical action, and ecclesiastical action was to produce a new definition of constitutional relations.

<sup>1</sup> Cf. p. 64 above.

<sup>2</sup> Brewer, II, p. 163; Friedmann (I, p. 30) thinks the bishop was referring to Margaret of Scotland's divorce.

<sup>3</sup> Brewer, I, p. 95: On 20 August 1514 Andrea Badoer had reported, with slight exaggeration, to the Venetian government that a marriage had been arranged between Suffolk and the emperor's daughter Margaret, although he "had not more than three wives", and "Madam more than one husband"; *Venetian Calendar*, II, no. 464, cf. *L. and P.* IV, no. 5859, 20 Aug. 1529, papal bull supplying all defects both of law and fact for Suffolk's third marriage.

Henry knew well enough that royal marriages, and still more the unmaking of them, were matters of state, not light or easy, and that Clement VII must consider Charles V even more carefully than of course any pope must consider any emperor: still, the thing did not seem impossible, and Henry had very good reason for hoping that he had a useful claim on papal gratitude and complacence: for indeed the Lancastrian policy of co-operation with the Church, carefully utilised by his father, had been enthusiastically espoused by Henry VIII.

Henry might be counted sincere in the practices of piety, decent (all things considered) in domestic morality, exemplary in charitable works, with an unusual equipment and an unusual inclination for theological studies, devoted more than most kings, and more than any of his time, to the interests of the Roman see. His friends and servants, from Wolsey downwards, were commonly scholars and ecclesiastics. His first incursion into foreign politics was in support of Julius II, and in general his diplomacy sought and obtained Roman approval. In 1510 he received the Golden Rose, the Sword and Cap in 1513. These papal recognitions did not satisfy him: he wanted something more decisive and permanent, something to match with the *Most Christian* in the French king's title and the *Catholic* in the Spaniard's; by 1516 he had found the addition which would suit him—*Fidei Defensor*—but he was not to obtain it for some years yet.<sup>1</sup>

The servant's promotion was speedier than the master's, for Wolsey obtained in August 1514 his archbishopric<sup>2</sup> and his cardinalate a year later, and in the spring of 1518 Henry, for the first time disinclined to defer to papal desires, used his disinclination to extract more preferment for his minister. Leo X was endeavouring to organise all Europe for a grand crusade against the Turks: though the English government was as sceptical as were others about this project it preserved a decently respectful attitude, but at the same time the opportunity was taken to show its perfect independence of the ecclesiastical organisation. When the pope wished to send Campeggio to England as legate *a latere* to

<sup>1</sup> A. F. Pollard, *Henry VIII*, p. 107.

<sup>2</sup> Which made him *legatus natus* as a matter of course: for the difference between *natus* and *a latere* cf. *Wolsey*, pp. 165 ff.

prepare his crusade, he was told that the admission of legates<sup>1</sup> was contrary to the national rules (*municipalia jura*) of this realm "quae sancte regia majestas observare astringitur"; nevertheless this particular rule, in spite of its sanctity, would be waived on condition that Campeggio's legatine powers were restricted and that Wolsey was joined with him in equal authority by papal mandate: Wolsey could not come from the pope's side, never having been there, he was the principal minister of the monarch with whom he was to negotiate, he had himself protested against the proposal to make Bainbridge legate *a latere* in 1514; nevertheless, Leo thought it worth while to comply without more ado.<sup>2</sup>

Nor was that all that was done by way of reminding the papal administration that its action in England was on sufferance. Cardinal Hadrian,

<sup>1</sup> Cf. *Henry VII*, p. 181, and p. 101 below. *R.P.* iv, p. 338: Cardinal Beaufort admitted and required (1429) to take part in *Consilium Regis ut unus Consiliariorum Suorum*, in view of his special virtues and blood, though apparently it was against precedent for a cardinal to be so admitted, and though protestation was made, by cardinal and parliament, that he should absent himself whenever anything between king or kingdom and apostolic see was to be discussed. And *Y.B.* 1 H. VII Hil. pl. 10, fol. 10, the pope excommunicating Englishmen who had seized alum belonging to Florentines, the chancellor thereupon consulting the judges in the parliament chamber, Hussey (who at *Y.B.* 1 H. VII Trin. pl. 1, p. 26 was successfully to ask the king not to desire to know the judges' opinions in *re* Humfrey Stafford "for they understand that he will come before the king's bench judicially") recalled the case *t.r.* Edward IV when the king decided in full council before the lords and the judges that a legate then at Calais should not be admitted unless he swore that he brought nothing with him derogatory to the king and his crown: and the chief justice recalled how Edward I, "par advis de son Conseil", wrote to the pope that there was no one in the temporality above him but that he was immediate to God: and the bishop of London recalled how *t.r.* Henry VI Humfrey duke of Gloucester burnt letters "which were in derogation of the King". For Edward I, cf. J. H. Ramsay, *Dawn of the Constitution*, pp. 471-8, T. Rymer, *Foedera* 1, p. 926: for Gloucester, cf. K. H. Vickers, *Humphrey Duke of Gloucester*, p. 325; J. A. Twemlow, *Papal Letters*, VII, p. 36 (the execrable statutes against ecclesiastical liberty, and the ill-treatment of the pope's nuncio and collector). For the alum case, cf. *Henry VII*, p. 181. For William I, cf. Z. N. Brooke, *English Church and The Papacy*, p. 137, "William was careful to prevent any contact with the Papacy that had not his express sanction. Nothing was to come from Rome without his consent. . . no one was to go to Rome without leave. . . Any legate that came from Rome would be admitted only as an envoy to the king, not as a plenipotentiary with authority over the English Church". Cf. p. 101 below.

<sup>2</sup> *L. and P.* II, nos. 4073 (April 11) and 4170 (May 17), referred to by Brewer, I, p. 278. Cf. *Wolsey*, p. 170, from three years the period was extended to five and then to ten: the scope was continually extended, was never very definite, and never enough to satisfy Wolsey.

late papal collector in England<sup>1</sup> and always an enemy of Wolsey's, was in disgrace, sheltering at Venice and begging for pardon: Wolsey was all the more anxious to make pardon impossible since Hadrian's bishopric of Bath and Wells, vacant by Hadrian's disgrace, had been conferred on him. Now (1518) Campeggio was kept in Calais<sup>2</sup> for weeks, not allowed to cross the Channel, until news came of Hadrian's deprivation by the pope. Then, indeed, a knight of the Garter was sent to meet him and he was welcomed with the greatest ostentation, but not until he had been unmistakably shown that on the king of England's territory it was the king of England's word which bound and loosed, and that the English cardinal was not going to be content with an honorary elevation nor with a gracious permission submissively to second his colleague from the fountain-head of ecclesiastical jurisdiction.<sup>3</sup> Moreover, Wolsey succeeded in inducing the pope to continue his legatine powers for various terms, and finally, in 1523, for life:<sup>4</sup> his ambition, indeed, had aimed, the year before, as high as the papacy itself,<sup>5</sup> but probably with no very fervent hopes of success.

Meanwhile the king had found his reward. Luther

hath written a book [wrote Tunstal to Wolsey, in January 1521] since his condemnation, *De Captivitate Babylonica Ecclesiae*, wherein he holdeth that four of the sacraments be only *de jure positivo*, by the pope's ordinance, so called, viz. *Confirmatio*, *Ordo*, *Extrema Unctio*, and *Matrimonium*; and that *Baptismus*, *Eucharistia*, and *Poenitentia*, be *de jure divino et evangelii*. They say there is much more strange opinion in it, near to the opinions of Boheme. I pray God keep that book out of England.<sup>6</sup>

The prayer was in vain: the book reached England, and Henry resolved at once to refute it. Few kings have been competent for

<sup>1</sup> Since the middle of the fourteenth century there had been a special oath to the king to be taken by the resident papal collector, never to put the king's interest below the pope's; it was to be taken in parliament, before the collector entered on his office. J. Hatschek, *Englische Verfassungsgeschichte*, p. 319; P. Fabre, *Étude sur le Liber Censuum de l'Église Romaine* (Bibliothèque des Écoles françaises d'Athènes et de Rome, fasc. 62, A.D. 1892), Piero Griphi (1510) on the office, and how he was allowed to administer it after taking an oath in parliament.

<sup>2</sup> Cf. note 1 on previous page.

<sup>3</sup> Brewer, I, pp. 279, 280.

<sup>4</sup> Cf. p. 10 above.

<sup>5</sup> He tried again in 1523 and as late as 1529 was still thinking of it, cf. *Wolsey*, p. 174.

<sup>6</sup> Brewer, I, p. 602.

theological controversy, and even Henry had other things to do—especially, just then, the destruction of Buckingham—but by the end of August 1521 his book was sent to the pope, with dedicatory verses of the king's own composition:

Anglorum rex Henricus, Leo Decime, mittit  
Hoc opus et fidei testem et amicitiae.<sup>1</sup>

So lively a faith and so solicitous a friendship demanded some return, and towards the end of October 1521 the news reached England that Leo had chosen *Fidei Defensor*<sup>2</sup> as a title of honour to confer upon his champion. Henry was overjoyed at the receipt of this "high and most excellent title of *Defender of the Faith*, to the perpetual renown and glory of him and all his successors", and wrote to Wolsey that "though God hath sent unto him a little learning, whereby he hath attempted to write against the erroneous opinions and heresies of the said Luther, yet he never attended so to do afore he was by your Grace moved and led thereunto.<sup>3</sup> Wherefore his Highness saith that your Grace must

<sup>1</sup> For this and the following paragraph, cf. Brewer, I, pp. 604 ff.

<sup>2</sup> It is not absurd to argue that of the central mystery of the Catholic Faith Henry was the best defender at that time, and was far more right than the mass of Roman Catholic teachers since: cf. Maurice de la Taille, S.J. *The Mystery of Faith and Human Opinion* characterised (fairly, I think) by a reviewer in the *Literary Supplement* (17 Sept. 1931) as follows: "Père de la Taille's startling contention is that the current theology of the Mass has been developed on wrong lines since the middle of the sixteenth century. He finds the causes in reaction to Luther's denial of sacrifice in Christian worship", on the ground that there was no sacrifice at the last Supper. "The earliest published reply to this challenge P. de la T. finds satisfactory. . . . He takes both the *Assertio Septem Sacramentorum* and its author very seriously": no doubt More and Fisher helped Henry. "The sum of his argument was that the Sacrifice of Christ was begun in the Supper and completed on the Cross": this was not new but "the historic teaching of the Church was adapted to the specific refutation of Luther's thesis. Henry's conspicuous use of it gave it a dominant vogue, but a certain unwillingness to concede anything in face of Luther's blunt reasoning drove theologians to a search for the Cross, apart from the Supper, in the action of the Mass. . . . the result was a variety of ingenious theories about the reduction of the Body of Christ to a 'victim-sacrifice' in the Mass": the Council of Trent was non-committal between the two views but the "victim-sacrifice" has dominated the Roman schools of theology, except those of the Oratorians.

<sup>3</sup> In 1534, when Cantuar. chancellor, Norfolk, and Cromwell met to examine More about his alleged complicity with the Nun of Kent and to try and frighten him into agreement about the marriage, they charged him with provoking Henry to set forth his Assertion of the Seven Sacraments and maintenance of the pope's authority, thus putting a sword into the pope's hands to fight against himself. More denied this, and said that he had at Henry's request revised the work, "Wherein when I

of good congruity be partner of all the honour and glory he hath obtained by that act”.

It might seem impossible to imagine a situation better suited to ensure the co-operation of church and state in England than the one exemplified by this incident. Here was all the power of government in the hands of two men, the king and a prince of the church, who worked together without question and who were both devoted to orthodoxy and catholicism, and both greedy of Rome's honours.

Yet even in the unction of mutual congratulation there was some grit. The pope had refused to grant the new title in a public consistory. It was a trifle irregular that the secular power should come to the aid of the Vicar of Christ not with the sword but with the pen: the victor of Théroutanne, the patron of the Holy League, had been doing what he was designed for: now he was essaying a task for which there were other ministers ordained. It was ominous (or rather, it was to look ominous) that Henry's theological Théroutanne should have been an *Assertio Septem Sacramentorum*: one of the four which Luther had belittled was *matrimonium*, and Henry was to show that he took a perilously high view of that institution: institution of the Church? institution of God? in some respects, at least? Here once more was the cardinal problem of the sixteenth century, what is the criterion of Law?

found the Pope's authority highly advanced, and with strong arguments mightily defended, I said unto his grace: 'I must put your highness in remembrance of one thing, and that is this. The Pope, as your grace knoweth, is a Prince as you are, and in league with all other christen Princes. It may hereafter so fall out that your grace and he may vary upon some points of the league, whereupon may grow breach of amity and war between you both. I think it best therefore that that place be amended, and his authority more slightly touched'. 'Nay', quoth his grace, 'that shall it not. We are so much bounden to the see of Rome that we cannot do too much honour to it.' Then did I further put him in remembrance of the Statute of Praemunire, whereby a good part of the Pope's pastoral care here was pared away. To that answered his highness: 'Whatsoever impediment be to the contrary, we will set forth that authority to the uttermost; for we received from that See our crown imperial'; which, till his grace with his own mouth told it me, I never heard of before": cf. Harpsfield, p. 160, Roper, p. 38. Note that More objected to premunire as such and not merely to some Henrican construction of it. And about the pope's principedom, cf. Dante, *Inferno*, canto 19: "Ahi, Costantin, di quanto mal fu matre, non la tua conversion, ma quella dote che da te prese il primo ricco patre!" "Ah Constantine! to how much ill gave birth, not thy conversion, but that dower which the first rich Father took from thee!"

Of that problem Henry's case against Catharine was to be a very particular instance with a very general consequence, and of that problem the whole constitutional history of a century and a half was to be a continual agitation.

But at present the problem slept and there seemed no likelihood that it would be alarmed and exacerbated by controversy between the successor of Edward the Confessor, who reigned over St Thomas à Becket's country, and the successor of St Peter, who had seen himself ignored at an imperial election and the heresiarch Luther summoned not to Rome but to Worms. Nor did Henry in his new part as a propagandist prove to have forgotten the primary duty of a king in Christendom: he was the patron of the Holy League of Cambrai (1526) as he had been of the earlier Holy League, and if he was not as active nor as lavish as on the earlier occasion, it was to be remembered that recent domestic events<sup>1</sup> had circumscribed his resources, and at any rate he was active and lavish enough for the cardinals to be "unanimous [wrote Campeggio on 7 February 1527] in declaring that Henry was God's blessing to them, the patron of Italian liberty, the real Defender of the Faith", and for them to tell Wolsey that never any one had more benefited the holy see than he, who by his counsels made the best of kings still better and who watched over the see apostolic less as a son and a legate than as a patron and a tutor.<sup>2</sup>

The first formal steps to break the marriage were taken on 17 May 1527, when Henry was summoned to appear before Wolsey, assisted by Warham, as legate at his house at Westminster, to answer the allegation that he was living unlawfully with his brother's widow. The king had, of course, previously given his consent to the summons, and the proceedings were kept in the strictest secrecy: for whatever reason, they were dropped almost as soon as they were begun;<sup>3</sup> but the reason was

<sup>1</sup> Cf. pp. 66-71 above.

<sup>2</sup> H. A. L. Fisher, *Political History of England, 1485-1547*, p. 262, referring to *L. and P.* iv, nos. 2857, 2866, 2919.

<sup>3</sup> Probably because the pope, being now in the emperor's power, would not be likely, even if otherwise he would have been, to accept the decision of this court and confirm it without appeal, and on the other hand, if the fact of this court's existence were known it might prevent any future action of Wolsey as judge by papal commission: cf. Brewer, II, p. 188.



certainly not any change of resolution on Henry's part; he was absolutely resolved on getting rid of Catharine at any cost, and had promised as much to Anne Boleyn.<sup>1</sup>

For Wolsey this meant a danger to his position more serious than any he had faced hitherto. The queen had learnt what was threatening, and was determined to defend her rights with every weapon. This meant that the emperor became a party to the controversy, and so Wolsey was driven to a French alliance, which was disliked by almost all Englishmen, whether they were solid merchants whose connections were mainly with the Low Countries, or ne'er-do-wells whose traditional resource was a cross-channel expedition, or Lutherans whose spiritual home was in Germany, or the vast majority who disliked taxes, or Catholics who saw in the emperor the head of Christendom, or anti-clericals who saw in him the counterpoise to the pope, or noblemen accustomed to look for their profit in the export of wool and their glory in the slaughter of Frenchmen. These last two classes were especially dangerous. Wolsey had always been beset with all the envy and malice which are commonly incident to overwhelming success in the arena of ambition: the blackest envy and the sharpest malice were in the hearts of the lay grandees who regarded as their due the prizes which he had wonderfully and arrogantly accumulated. Now to forge their ill-will into poisoned arrows they had an opportunity better than they could have imagined. Wolsey had nothing but the king's favour; that depended on his doing the king's will, which meant putting Anne Boleyn into the place of Catharine, and Anne Boleyn belonged to the family of which Norfolk was the head and to the party which paraded its anti-clericalism and hardly hid its heresy. A politician could not be in a more neck-or-nothing situation than was Wolsey once it became clear that the king's "great matter" was not going to be easily managed, and his danger was plain enough at the time. "Disaffection to the king", wrote the Spanish ambassador in March 1527, "and hatred of the Legate [Wolsey] are visible everywhere. . . . The King would soon be obliged to change his councillors, were only a leader to present himself and lead the malcontents";

<sup>1</sup> Brewer, I, pp. 188, 184.

and in May he reported a general rumour that Henry meant to remove Wolsey from the administration: by that time also there were indications enough that the minister could no longer rely upon the king.<sup>1</sup>

<sup>1</sup> Quoted by A. F. Pollard, *Henry VIII*, p. 203, referring to *Sp. Cal.* III, pp. 109, 190, 192, 193; IV, p. 3951, and *L. and P.* IV, p. 1411 and no. 3304: for the substance of this paragraph cf. also P. Friedmann, *Anne Boleyn*, I, pp. 52 ff.

## CHAPTER VI

### THE LEGATINE COURT

Yet it might seem for a little longer as if his power were as great as ever and even still growing. With Catharine resolved to defend her right by every means she could get and with Clement VII a prisoner in the castle of St Angelo, the most likely way to make the pope's authority available for Henry's purpose was to induce him to delegate it to some one who could be trusted to use it appropriately. For such a purpose Wolsey was obviously the man. Moreover, if such a purpose were to be attained, England, so affronting the Empire, must be sure of the support of France,<sup>1</sup> and who but Wolsey could manage a diplomatic campaign on the grand scale? To fortify him the more for this purpose he was given unprecedented powers, made not the mere ambassador but the lieutenant, the substitute, of the king, combining in his single person the highest spiritual and the highest temporal dignity that England could afford.<sup>2</sup>

Accordingly he instructed the train of near a thousand, including noblemen and persons of the highest eminence, who accompanied him (July–Sept. 1527), that he was to be treated as if he were the king himself: "I must, by virtue of my commission of lieutenantship, assume and take upon me, in all honours and degrees, to have all such service and reverence as to his highness' presence is meet and due: . . . And for my part ye shall see me that I will not omit one jot thereof. . .".<sup>3</sup> And indeed he came so near to behaving as king not only of England but of France also, that he sat at the French council and, his gentleman-usher thought, mastered it, and "had the heads of all the council so under his girdle that he might rule them all there as well as he might the council of England":<sup>4</sup> so perhaps he might on occasion and for the moment, but he was come to the time when it was to be seen that effectively he could

<sup>1</sup> Cf. Brewer, II, pp. 189 ff.

<sup>2</sup> Brewer, II, p. 191, referring to *L. and P.* IV, no. 3186, p. 1449, 18 June 1527.

<sup>3</sup> G. Cavendish, *Thomas Wolsey* (Temple Classics edn.), p. 63.

<sup>4</sup> G. Cavendish, *Wolsey*, p. 78.

manage the one as little as the other: and though his power was enough for him to assemble "all the privy council of France together, to whom he spake his mind" very freely concerning a disrespectful book published in Paris, yet, says Cavendish, "I saw small redress", and all his greatness did not protect him from continual petty thefts in his lodgings, nor from such annoyances as "a cardinal's hat with a pair of gallows over it" engraved upon his bedroom window.<sup>1</sup>

Wolsey's mission was a renewed proof of his diplomatic mastery, but it did not do enough to save him. He might say, as he did in the Star Chamber<sup>2</sup> to the lords spiritual and temporal of the king's council, and the mayor and aldermen of the City of London, and the judges of the law, and all the justices of peace then being at Westminster,

How much is the realm of England bound to God for the high peace that now is concluded? A high peace, yea such a peace as was never concluded between no realms, for by my labour and industry I have knit the realms of England and France in such a perfect knot that it should never fail; for the three estates of France (which here we call a parliament) have affirmed the same, and therefore, my lords, be merry, for the king shall never more charge you with wars in France, nor the Mayor and other merchants shall never be charged further with expenses. . . for the king shall have no need, because that he by this league shall be the richest prince of the world, for I assure you he shall have more treasure out of France yearly than all his revenue and custome amount to, yea, and count his wards, forfeits, and all such casualties<sup>3</sup>. . .

He might say such things, and with not much less sincerity than is usual on such occasions, but he could not ignore that on the point that mattered most his mission had been a failure: Wolsey's plan for getting rid of Catharine did not promise success, and the king was looking elsewhere.

While Wolsey was still in France, Henry had dispatched another envoy. Dr Knight, direct to Rome: and in December 1527, when Clement VII found means to escape from his captivity to Orvieto, the reality dropped

<sup>1</sup> G. Cavendish, *Wolsey*, pp. 84, 85.

<sup>2</sup> Cf. p. 73 above.

<sup>3</sup> I.e., even counting his casual profits from his feudal and judicative positions. The quotation is from E. Hall, *Henry VIII* (ed. C. Whibley), II, p. 105.

out of Wolsey's plan of making papal power available for Henry's purpose by getting it delegated on plea of duress: now for the first time the matter about which Henry cared most, about which he cared more than about everything else put together and more than he ever had cared about anything, was being entrusted, in part and in competition, to one who was not Wolsey.<sup>1</sup>

Knight came back in triumph, with a dispensation<sup>2</sup> and a commission<sup>3</sup> which he fancied sufficient: but the more expert Wolsey saw at once that the papal lawyers had drawn from those instruments the teeth which should have made them effective. To remedy this and to secure the dispatch to England of an Italian legate who should provide the answer to any taunt of Wolsey's partiality, a new mission was sent to Rome, consisting of Edward Fox, the king's almoner, and Stephen Gardiner, Wolsey's secretary.

Gardiner was as good a man for the purpose as could have been found, but he was not much more successful than Knight had been. The dispensation he got easily enough, and much less easily the commission also, a commission to Wolsey and Campeggio<sup>4</sup> to try the case: but this was not a "decretal" commission: consequently it would not prevent the pope from taking back the case into his own hands whenever he chose; a decretal commission also was indeed sent, but drawn in such a form that it might be repudiated, and entrusted to Campeggio with strict orders not to let it out of his hands nor to show it to any one but Henry and Wolsey: and however much the curia might promise not to revoke or invalidate the commission, promises in such a matter were a dangerous reliance.<sup>5</sup> The more since they had been given largely as a result of French military successes, which tended to make the threats of Charles less dreadful and those of Henry

<sup>1</sup> For all this negotiation with the papal curia, cf. H. A. L. Fisher, *Political History of England*, 1485-1547, ca. p. 272; A. F. Pollard, *Henry VIII*, ca. p. 214; Brewer, chs. xxviii and xxix; P. Ehses, *Römische Dokumente*.

<sup>2</sup> To re-marry (or rather marry) if the Aragon marriage were found invalid.

<sup>3</sup> For Wolsey to hear the king's suit.

<sup>4</sup> He was an expert canonist, "protector" of England at the curia, and bishop of Salisbury.

<sup>5</sup> Cf. Brewer, II, p. 254; A. F. Pollard, *Henry VIII*, p. 214; H. A. L. Fisher, p. 274; and *Römische Dokumente*, there referred to, pp. 21, 22, 33-6.

more real. These successes proved even less permanent than such things usually are: and almost as soon as Campeggio had set out for England the papal curia was already bewailing to him that it was "entirely in the power of the Emperor's servants", and instructing him "not to proceed to sentence, under any pretext, without express commission, but to protract the matter as long as possible", and Wolsey seems to have been pretty well informed, even during Campeggio's half-way sojourn in Paris, of his instructions;<sup>1</sup> while Clement himself was assuring Charles that his aunt's interests should in no way suffer, and that the whole case should be eventually referred to Rome.<sup>2</sup>

Campeggio soon saw that he had no chance of persuading Henry to give up his suit or Catharine to retire into a nunnery: so there was nothing for him to do but "protract the matter". In this task he was assisted by the appearance of a new element in the problem: this was the alleged existence in the Spanish archives of a brief in which Julius II purported to remedy any defects there might be in his bull of dispensation. To examine this allegation might take time enough, and to brush it aside was clearly impossible, for it went to the root of the whole matter.

Meanwhile, if Campeggio had been provided beyond expectation with material for delay, Henry and Wolsey had had forced upon them new motives for determination and for haste. The alliance with France against the emperor, from the first unpopular, grew in disfavour: its restriction of trade really did cause unemployment among clothworkers, and it was commonly held to have something to do with fifteen twenty-eight's agricultural disasters and dearness of food: in Kent and in the eastern counties there were disorders almost to be dignified with the name of revolt. At the same time the spread of Lutheranism was beginning to attract attention. Then, the summer of 1528 was cursed with an unusually virulent epidemic of the sweating sickness, which smote many of the loftiest heads, struck even at Anne Boleyn, and kept the king himself in a continuous apprehension.<sup>3</sup> Here was matter enough

<sup>1</sup> Cf. Brewer, II, p. 292.

<sup>2</sup> *L. and P.* IV, nos. 4721, 4736-7, and *Sp. Cal.* III, p. 779, both referred to by A. F. Pollard, *Henry VIII*, p. 216.

<sup>3</sup> Cf. Brewer, ch. xxx: cf. also Chas. Creighton, *History of Epidemics in Britain*, vol. I, esp. pp. 250 ff. and 265 ff.

to urge Henry's emotions and to jangle his nerves, to remind him how near he was to getting Anne and how near to losing her, to remind him and all the world how sorely he needed a son, and to persuade Wolsey (who little lacked persuasion) how necessary it was (quite beyond the practicability of delay) that he should give the king his desire. He had all the world against him, the moment the king were not with him: and just at this time, in the affair of the abbess of Wilton, he had a bitter lesson how fleeting were the favours of princes and with what sort of winds they were blown: of that affair the details are unimportant: it left the cardinal in no doubt that the least displeasing of Anne Boleyn was quite as much as his place was worth.

So that if Campeggio easily found matter for delay, it was more than ever certain that delay would not settle the matter: and the particular way in which the Roman legate was spending time was precisely the way least likely to reconcile Henry and Wolsey with papal jurisdiction. Wolsey was accustomed to being the first of any pair (or of any pair but one, for *ego et rex meus* was latinity, not pretention). Campeggio had been plundered and blackmailed by the imperialists, he was under great obligations to England, he was a professional lawyer, he was old and he was ill, he might be expected to be serviceable enough to the English statesman whose all was risked on a policy of opposition to the empire. Yet from the first he made it clear that he was not minded to be obsequious or even complaisant.<sup>1</sup> He came with an intention very different from Wolsey's, he came in his own time, he would accept no *douceur* under the guise of journey-money, he took full advantage of coming from the fountain-head and of his superior knowledge of Roman practice. In these circumstances he might find that dilatoriness came easy, but he could not make it tolerable to Wolsey any more than to Henry.

The alleged brief<sup>2</sup> of Julius II was not a mere occasion for delay: it was that at the very best: at the worst, it cut across the main line of the English claim. That line had been not to deny the papal function

<sup>1</sup> Cf. Brewer, II, pp. 292 ff.

<sup>2</sup> For the possibility that Clement VII himself thought it a forgery, cf. *L. and P.* IV, nos. 5181, 5733, 5742.

of dispensing but to assert the defects of a particular dispensation. There were difficulties about such an assertion, especially Catharine's statement that her marriage with Arthur had never been more than formal.<sup>1</sup> But now, if the brief were genuine and valid, the assertion itself became useless<sup>2</sup>: and so it happened that when the winter of 1528 and the spring of 1529 had been spent in vain endeavour to get rid of the brief, Henry and Wolsey determined to try hard for a decision from the legatine court, brief or no brief: if then Clement called the case to Rome, they would see what was to be done, and Henry had already begun to think of the possibility of denying the pope's right to dispense in such a matter<sup>3</sup> and was already showing himself not unwilling to make use of the anti-papal forces of the time, even if at first it were only by way of bluff. In Easter-week of 1529, wrote Campeggio,

certain Lutheran books in English, of an evil sort, have been circulated in the King's court. . . . I understand that by this book the Lutherans promise to abrogate all the heresies respecting the articles of the Faith, and to believe according to the Divine law, provided that this King, with the Most Christian King, will undertake to reduce the ecclesiastical state to the condition of the primitive Church, taking from it all its temporalities. I told the King that this was the Devil dressed in angels' clothing, in order that he might the more easily deceive, and that their object was to seize the property of the Church; nor could any one promise the abrogation of so much heresy as now pervades the people. I represented that by councils and theologians it had been determined that the Church justly held her temporal goods. His Majesty remarked that these [Lutherans] say that those decisions were arrived at by ecclesiastics, insinuating that now it is necessary for the laity to interpose. In reply I adduced various reasons, partly theological and partly temporal, telling him that this would be directly against his interests,

<sup>1</sup> But the marriage law of the time was in a thorough muddle about reality and formality, fact and fiction: when Henry's sister Mary married Lewis XII by proxy, "the Marquis of Rothelin, in his doublet, with a pair of red hose, but with one leg naked from the middle of the thigh downwards, went into bed, and touched the Princess with his naked leg. The marriage was then declared consummated. The King of England made great rejoicing. . . .", *L. and P.* 1 (1920), no. 3171, 18 Aug. 1514.

<sup>2</sup> And Gardiner, in Rome, was less and less hopeful of the pope, the Imperialists being in the ascendant: cf. Muller's edition of his letters, pp. 10 and 11, and ff.

<sup>3</sup> Cf. A. F. Pollard, *Henry VIII*, pp. 219 ff.



for, as matters now stood, he obtained large sums of money; but if the laity had the goods of the Church this would no longer be the case, and they would grow rich and puffed up and probably rebellious. The King also remarked that these men alleged that the ecclesiastics, and especially the court of Rome, live very wickedly, and that we have erred in many things from the Divine law. I replied that I would allow there were sins in Rome and in the court, because we are but men, but the Holy See had not deviated a jot from the true faith. Finally, his Majesty assured me of his good will, and that he had been and always would remain a good Christian, but that he had desired to communicate to me what had been told him by others; and if I wished to write to Rome, he was content, provided I did not state that I had heard it from his own mouth.

The cardinal (Wolsey) was present, and after our departure thanked and commended me for my good offices.<sup>1</sup>

Such were the dangers in which papal authority in England stood when on 31 May 1529 the legatine court was formally opened, and the king and queen were cited to appear before it on June 18. Sexual relations and their only proper establishment, matrimony, formed that part of human life where to deny the Church's competence was most difficult, dogma alone excepted, if indeed dogma and morals be not always, and here notably, inseparable. In this case the king wanted, at any cost, one decision: doubtless his will was moved by desire for Anne Boleyn, but doubtless also its satisfaction was a cardinal interest for his kingdom, and doubtless his conscience went with his desire. Other men's consciences are always odd, and Henry's was very odd, but it is not necessary to believe that it was altogether counterfeit, consciously or unconsciously. Doubtless, too, the pope wished to see justice done, and might well believe that in so much that was disputable the rights of Catharine and her child formed the one firm fact on which a just judge must unshakably insist, but if the pope had kept his eye fixed on that point, at least he had wandered eccentrically around it, nor had the political motives of some of his divagations been obscure. For whatever reasons Henry had begun, the end he aimed at was of high political importance: however moral and religious Clement's destination might be, some parts of the road he had taken were worldly and looked

<sup>1</sup> *L. and P.* IV, no. 5416, referred to by H. A. L. Fisher, *Political History*, p. 284.

worldly. Now the king's desire and his kingdom's security thrust one way, the papacy's duty and the balance of its interest the other way: there was no third way, and of these two neither could prevail without affecting, hardly without essentially affecting, the English state.

Stephen Gardiner was in Rome, fortified with a whole team of assistant envoys, soliciting papal authority that the legatine court might be made sufficient and serviceable: but Clement was quite unyielding on the points that mattered, he would neither quash Julius's brief nor enlarge the decretal commission so that the whole cause might be ended in England.<sup>1</sup> And indeed the Spanish embassy at Rome won a complete victory over its English rivals, and in April 1529 got Clement's promise that he would revoke the cause:<sup>2</sup> if this promise were not known, or not believed in England, yet it was clear that Henry and Wolsey could not hope to get anything out of the pope for the moment: and it was for this reason that they resolved to push on with the legatine trial, hoping that it would decide for them before the cause might be revoked to Rome, and that when Clement was confronted with a more or less accomplished fact, a rather more than less accomplished fact, that then he might be persuaded to take the smaller step, to complete the fact rather than to annul it.

On 18 June 1529 Henry appeared before the legatine court by proxy, and Catharine in person: on the 21st the legates overruled Catharine's protest against their jurisdiction. This time the king also was present in person, and he

desired them to determine the validity or nullity of his marriage, about which he had from the beginning felt a perpetual scruple. The Queen said that it was not the time to say this after so long silence. For which he excused himself by the great love he had and has for her. He desired, more than anything else, that the marriage should be declared valid, and remonstrated with the judges that the Queen's request for the removal of the cause to Rome was unreasonable, considering the Emperor's power there; whereas this country is perfectly secure for

<sup>1</sup> Brewer, II, pp. 318 ff: cf. Muller, *Letters*, pp. 12-19

<sup>2</sup> *L. and P.* vol. IV, pt. III, p. 2393: one of the Spanish arguments with Clement was a letter from the king of Hungary, showing what hopes the king of Hungary built on the issue of this business.

her, and she has had the choice of prelates and lawyers. Finally, she fell on her knees before him, begged him to consider her honour, her daughter's and his; . . . she had throughout appealed to Rome, where it was reasonable that the affair should be determined, as the present place was subject to suspicion, and because the cause is already at Rome.<sup>1</sup>

Upon which she

took her way straight out of the house. . . . The King being advertised of her departure commanded the crier to call her again, who called her by the name of "Catharine, queen of England, come into court". With that quoth Master Griffith (on whose arm she was leaning) "Madam, ye be called again". "On, Sir," quoth she, "it maketh no matter, for it is no indifferent court for me; therefore I will not tarry." And thus she departed out of that court, without any further answer at that time, or at any other, nor would never appear at any other court after:<sup>2</sup>

for which recalcitrance she was pronounced contumacious, and the proceedings went on without her.

But they did not go on very fast nor very far. Popular feeling seems to have been with Catharine: "if the matter was to be decided by women, Henry would lose the battle; for they did not fail to encourage the Queen at her entrance and departure by their cries, telling her to care for nothing, and other such words; while she recommended herself to their good prayers, and used other Spanish tricks".<sup>3</sup> Henry himself, when the queen left the court on Master Griffith's arm, had felt the necessity of aligning himself with the sympathy which she excited—"she hath been to me as true, as obedient, and as conformable a wife as I can in my fantasy wish or desire. She hath all the virtuous qualities that ought to be in a woman of her dignity, or in any other of baser estate": and Wolsey thought it worth while to get his responsibility denied—"My Lord Cardinal," quoth the king, "I can well excuse you herein. Marry indeed, ye have been rather against me in attempting

<sup>1</sup> Bibliothèque Nationale, no. 5499, p. 134, translated in *L. and P.* IV, no. 5702, and referred to by Brewer, II, p. 343: it is a dispatch from the ambassador du Bellay to Francis I.

<sup>2</sup> G. Cavendish, *Wolsey*, p. 111.

<sup>3</sup> M. du Bellay, *L. and P.* vol. IV, pt. III, 22 June 1529, p. 2526.

or setting forth thereof".<sup>1</sup> John Fisher, bishop of Rochester, in spite of Catharine's just complaint that she could not be satisfied with advocates chosen from Henry's servants and counsel, defended her courageously and well, and he was indeed a man held, for his learning and piety, in great esteem, if hardly such that "the King can no longer persist in dissolving the marriage: for this man being adverse to it, the kingdom will not permit the Queen to suffer wrong".<sup>2</sup> Campeggio had every inclination, and repeated orders, to drag the process out as much as possible. European politics were moving in a way not likely to increase Roman complaisance for Henry's matrimonial vagaries: "I have quite made up my mind", said Clement on 7 June 1529, "to become an Imperialist, and to live and die as such", and three weeks later he signed the treaty of Barcelona with Charles: in June also began the negotiations between France and the empire at Cambrai, in which new and enormous portent Wolsey took no part, and to which England was admitted only in August, after the terms, terms abandoning Italy to Charles, were virtually settled.<sup>3</sup> The English envoys at Rome wrote on July 16, that they had found out secretly that the pope had signed the advocacy of the king's suit to Rome the day before, "as it would have been dishonourable to have signed it after the publication of the new treaty with the Emperor, which will be published here on Sunday".<sup>4</sup>

The pope had acknowledged to the English envoys, with excessive pessimism, the dangers of the advocacy, "the King's merits, the necessity of the cause, and the scandals and tumults which the advocacy would produce, the ruin of the Church, and the loss of England and France", and had added also, with superfluous malice, "the ruin that would fall on Wolsey, who had done so much for him and the Holy See".<sup>4</sup> Before this, and the revocation, were known in England enough had already happened there to make clear that the suit had failed and Wolsey with it. On 13 July 1529 Campeggio wrote to Rome that the suit was getting on too fast for him, "with much celerity and more urgency... so that some expect a sentence within ten days... I will

<sup>1</sup> G. Cavendish, *Wolsey*, p. 110.

<sup>2</sup> As Campeggio's secretary reported on 29 June 1529, *L. and P.* IV, no. 5734.

<sup>3</sup> A. F. Pollard, *Henry VIII*, pp. 224, 225, 226, and quotation of *Sp. Cal.* IV, p. 72.

<sup>4</sup> *L. and P.* IV, no. 5780, referred to by A. F. Pollard, *Henry VIII*, p. 226

not fail in my duty and office, nor rashly or willingly give cause of offence to any person. When giving sentence, I will have only God before my eyes, and the Holy See".<sup>1</sup> On that very day the Spanish envoys at Rome had won their victory and made the legatine proceedings nugatory. But there were still hopes in England, hopes that sentence might be given there, and the English envoys in Rome advised that it should be procured before the advocacy was known: this advice was desperate enough when it was sent, and was quite useless by the time it arrived on July 22, for on July 23 Campeggio, so far from coming at last to definition, proclaimed that his court must be regarded as part of the consistory and therefore, like it, adjourned till October. It never met again, and that was the end of the king of England's attempts to get from the church of Rome a judicial annulment of his marriage. But he meant to have it annulled all the same, and there was already great and manifest danger that in that undoing much more than a marriage would be broken. On July 27 Wolsey wrote to his envoys in Rome that their advice to go on as if the advocacy was not to take effect was impracticable:

Campeggio writes with me to urge the Pope, if it must be granted, to qualify it; for if the King be cited to appear in person or by proxy, and his prerogative be interfered with, none of his subjects will tolerate it. . . . If, however, the avocation is merely intended to close my hands without preventing the King from taking any other remedy, it may be allowed to pass. A citation of the King to Rome, or threat of excommunication, is no more tolerable than the whole loss of the King's dignity. If, therefore, the Pope has granted any such avocation, it must be revoked. . . . [You] must urge Clement, therefore, to study how he can oblige the King, who is fully persuaded that his marriage is not good, and [you] shall urge that his desire to please the Emperor at all hazards will alienate this realm from the Holy See.<sup>2</sup>

<sup>1</sup> *L. and P.* iv, no. 5775, quoted by Brewer, II, p. 352.

<sup>2</sup> *L. and P.* iv, no. 5797, quoted by Brewer, II, p. 357.

## CHAPTER VII

### CHURCH AND STATE

Henry had indeed already begun to prepare his new campaign before any reply to this appeal could possibly have come from Rome. By 6 August 1529 the king was enquiring for the names of the borough towns.<sup>1</sup> Writs for a parliament<sup>2</sup> were ordered on August 9: on that very day, or very nearly, Cranmer was suggesting to Fox and Gardiner (the two churchmen most in Henry's confidence, if now Wolsey might be counted out) that the question whether the king were married should be taken away from the lawyers and submitted to the universities,<sup>3</sup> since "there is but one truth in it, which no men ought or better can discuss than the divines, whose sentence may be soon known and brought so to pass with little industry and charges, that the king's conscience thereby may be quieted and pacified, which we all chiefly ought to consider and regard in this question": and two days later Fox passed on this advice, which "so pleased the King's highness, that he thereupon commanded them to send for Dr Cranmer".<sup>4</sup> Nor was the new strategy obscure: "it is intended", wrote the ambassador du Bellay on August 23, "to hold a parliament here this winter, and then act by their own absolute power in default of justice being administered by the pope in the divorce".<sup>5</sup>

Henry's plan, then, was to surround himself so far as possible with expert approval and with general consent but to get all the legality, all the jurisdiction, he needed from his own courts, and especially from his high court of parliament. To understand how such a plan could come to his mind and what were its chances of success something must be known of the previous history of the relations between lay and clerical government, and between lay and clerical opinion, in England,

<sup>1</sup> *L. and P.* IV, no. 5831, Gardiner to Wolsey.

<sup>2</sup> In Ireland the deputy was being instructed to consult with the council about obtaining a subsidy without waiting for parliament, no. 5903.

<sup>3</sup> A. F. Pollard, *Cranmer*, p. 39, referring to *Narratives of the Reformation* (Camden Soc. vol. LXXVII), p. 241, R. Morice's *Anecdotes of Archbishop Cranmer*.

<sup>4</sup> *Anecdotes*, p. 242, my spelling.

<sup>5</sup> H. A. L. Fisher, *Political History*, p. 287, quoting from *L. and P.* IV, no. 5862.

and such knowledge may be approached by way of a recapitulation of the earlier ecclesiastical history of Henry's reign. Something has been said already<sup>1</sup> of Henry's piety and devotion to the Church, how he earned his title *Fidei Defensor*, how Wolsey concentrated in his person (made, in 1523, legate for life) and exercised, in full accord with the king, more ecclesiastical authority than ever before any man had held in England, and how in that connection Henry had committed his one act disobliging to the papacy, his exclusion in 1518 of a papal legate till he had given guarantees of docility. In spite of the uniqueness of this act, it was now to be proved the true manifestation of the age's spirit. How was this? how was it that Wolsey's warning when the legatine court broke down, that warning about "alienating this realm from the Holy See", which was itself but a repetition of one given when the court was beginning and when Wolsey impressed upon Campeggio that if it proved abortive "the authority of the See Apostolic in this kingdom would be annihilated",<sup>2</sup> how came it that such warnings could be given reality? In the autumn of 1529 Henry's international situation was worse than it had ever been, so was his financial situation, his great minister was broken,<sup>3</sup> his people were more generally discontented than in any earlier part of the reign, and they were very generally sympathetic with his injured wife. Yet in such circumstances he proceeded heroically to break the bonds of Rome (or to rend the vitals of Christendom and devilishly to sanctify the blasphemous schism into a national necessity). This was a very large feat, and it is certain that a sixteenth-century English king could do nothing out of the ordinary except on condition that he had some considerable section of his people with him, and no very considerable section very stiffly against him. How did Henry manage these conditions? it could hardly have been done if he had not found some anticlerical tradition and some anticlerical passions ready to his hand.

<sup>1</sup> Cf. pp. 83 ff. above.

<sup>2</sup> *L. and P. Henry VIII*, IV, no. 4881: Campeggio to Sanga, 28 Oct. 1528.

<sup>3</sup> The bishop of Bayonne predicted to Montmorency (4 Oct. 1529, *L. and P.* IV, no. 5983) "que par ce Parlement le Cardinal s'en va totalement", and a little later (no. 6019, Oct. 22)—"not known yet who will have the seal, I expect the priests will never have it again; and that in this Parliament they will have terrible alarms".

In fact, Henry was in this regard very fortunately situated, both in time and in space. There was all over Europe a current of contemporary opinion which tended towards the enhancement of royal and the confinement of papal authority: there was in England a well-understood policy for limiting and controlling Roman interference,<sup>1</sup> a policy so old that it might seem almost eternal and essential, and on the whole so little interrupted and in England so seldom withstood that it may be called national with little more exaggeration than is inevitably incident to the use of that word about medieval phenomena. William I

would not suffer that any one in his governance should, without his orders, accept as apostolic any constituted pontiff of the Roman city, nor on any terms receive his letters unless they had been first shown to the king. The primate of his kingdom<sup>2</sup> also [i.e. the archbishop of Canterbury] if he were presiding over a general council of bishops, the king would not allow to establish or prohibit anything, unless what suited his wishes and had been first ordained by him. Nor to any of his bishops would the king concede that he might, without the king's precept, implead or excommunicate or constrain by any ecclesiastical penalty any of his barons or ministers publicly defamed whether for incest or for adultery, or for any capital charge.<sup>3</sup>

This royal intention to regulate the stream of authority from Rome was helped by the remoteness of the fountain-head and by the bottleneck of the Dover Straits no less than by the pre-eminence in effectiveness of the English crown above all other crowns in Christendom. Nevertheless, the intention was sometimes foiled, as by the martyring of Becket and by the necessities of John, and it was not any part of the intention to deny that there was at Rome an authority the exercise of which in England was not always improper. Extreme claims for the *regnum*, involving such a denial, became a possibility of politics

<sup>1</sup> Cf. p. 81 above, p. 142 below.

<sup>2</sup> Cf. Z. N. Brooke, p. 102: "After Anselm's death, the archbishops of Canterbury lost this authority [over the northern province], and there were two separate provinces with separate convocations as at the present day. The English Church could only be united by papal authority", which was one principal reason for the uniqueness of Wolsey's position.

<sup>3</sup> Eadmer's *Historia Novorum* (Rolls Series, 1884), p. 10, referred to by T. D. Ingram, *England and Rome* (1892), p. 13: my translation.



by way of retort<sup>1</sup> to the extreme claims based by the papacy on the submission of John. In 1366 parliament was told "How the king had heard that the Pope, on the strength of an act which he said that King John did to the Pope, to do him Homage for the Realm of England and the Land of Ireland, and that because of the said homage that he ought to pay each year perpetually a Thousand Marks, is intending to make Process against the King and his Realm to recover the said Service and Payment:" and their opinion and advice were requested, and the prelates asked for a day to think it over, and "the next day they first for themselves, and then the other Dukes, Earls, Barons, and Grandees answered, and said, That King John or no other could put him nor his Realm nor his People in such subjection without Assent and accord from them. And the Commons on this asked and consulted, answered in the same way".<sup>2</sup>

Wycliffe was one of the mission sent to Bruges<sup>3</sup> to answer a papal claim to be "general lord of all temporals... as vicar of Christ and thus lord spiritual", and especially in England as heir to Innocent's superiority over John.<sup>4</sup> Wycliffe later disobeyed a citation to Rome on the ground of the royal authority supreme over all causes and derived from God,<sup>5</sup> he attacked the church's endowments, taught that the pope could not "be greater than the kaiser either in that which pertains to the world or that which pertains to God",<sup>6</sup> and committed other extravagancies. But Edward III was never a Wycliffite.<sup>7</sup>

<sup>1</sup> I am not trying to apportion moral praise or blame, nor to decide which came first, the hen or the egg. The Parliament of 1365, for instance, had decided to withhold Peter's Pence, and in 1374 Edward had asked for a return of all benefices held by aliens: cf. H. B. Workman, *John Wyclif*, pp. 218, 228. Clement VI (1342-52) found that "if the king of England were to ask for an ass to be made bishop he must not be denied", T. D. Ingram, *England and Rome*, p. 123.

<sup>2</sup> *R.P.* 40 E. III, vol. II, top of p. 290: my translation; cf. H. B. Workman, *John Wyclif*, p. 219. Cf. *Henry VII*, pp. 6, 45, 51, 54, 140, 152, 157, 161, distinctions between king and crown, and below, p. 125, Wolsey's surrender of York Place.

<sup>3</sup> In 1374: Urban IV was renewing the demand for tribute.

<sup>4</sup> H. B. Workman, *John Wyclif*, p. 229.

<sup>5</sup> Cf. J. P. Whitney, on p. 102 of *Essays in History presented to R. L. Poole* (ed. H. W. C. Davis).

<sup>6</sup> H. B. Workman, II, p. 29.

<sup>7</sup> Yet when the Church, to defend itself against Wycliffe, tried to work the inquisition in England, it found the university of Oxford unhelpful, the house of commons determinedly and effectively hostile, and the crown at least successfully obstructive: cf. in *Social and Political Ideas of Some Great Medieval Thinkers*, the essay by F. J. C. Hearnshaw, pp. 207 ff.

Nevertheless he and his parliaments and the kings and parliaments which succeeded them, were in this matter much nearer to Wycliffe than to Becket: and thus they came, in 1351, 1353, 1365, 1390, and 1393, to pass a series of statutes known by the names of *provisors* and *premunire*, statutes of *provisors*<sup>1</sup> being directed to defeat the pope's claim to dispose of all ecclesiastical benefices, and statutes of *premunire*<sup>2</sup> to maintain the jurisdiction of the royal courts against rival claims.

The statute of 1393, after a long preamble, enacted that any one obtaining or seeking "in the court of Rome or elsewhere any such translations, processes, and sentences of excommunication, bulls, instruments, or anything else whatsoever which touches the king our lord against him, his crown and regality as is aforesaid or his realm", should lose the royal protection and forfeit all his property to the king. It was not all "bulls, instruments, etc." that were thus excluded, but only such as conflicted with the rights of the kingship and kingdom, that is, "such as concerned what in the view of the secular authorities were secular affairs".<sup>3</sup> There was no "intention of disputing the pope's authority in that wide sphere of human concerns which everyone except a few heretics agreed to call spiritual", but there was an intention of preventing that spiritual authority from overruling the secular, and of keeping the delimitation of authorities in the power of the secular arm: for some time after the passing of the 1393 statute this intention was not used by way of infringing the competence of courts Christian, or of the Roman court, in matters which clearly belonged to them.

This moderation was not likely to prove in the long run a sufficient reliance for the papal authority. The Lancastrians were much obliged

<sup>1</sup> Because he *provided* incumbents for benefices.

<sup>2</sup> Because the writ of *premunire facias* was one of the means used to enforce this statute. The statute of 1365 was a statute both of *premunire* and of *provisors*, and the other statutes of *premunire* were sometimes called statutes of *provisors* in the fourteenth and fifteenth centuries; W. T. Waugh, note 2 on p. 174, *E.H.R.* vol. xxxvii, where he has an article on "The Great Statute of Praemunire"; all of which should be seen, especially also note 3 on p. 176.

<sup>3</sup> Waugh, p. 176: and possibly only such as concerned papal translation of bishops from one see to another without royal consent, and papal interferences with lay patrons; cf. Waugh, pp. 178 ff.: the commons seem to have been more firmly anti-papal than the king or John of Gaunt, cf. Waugh, p. 182.

to the church, but their very accession marked how self-conscious and how easily galled was the regality: for one of the reasons alleged for Richard II's deposition was that he had tried to fortify his statutes by papal approbation, "although the Crown of the Realm of England and the Rights of the same Crown, and the Realm itself, have been from all time so free, that the Lord Pope nor any one else outside the Realm itself, ought not to interfere with them".<sup>1</sup> And although the new dynasty does not seem to have used the statute of 1393, yet other statutes of provisors and premunire certainly were used, and the realm was fortified anew against encroachments by the church: for instance, in 1401 statute forbade the use of papal bulls to obtain exemption from payment of tithes.

This was the time when the Universal Church, much weakened by the Babylonish Captivity,<sup>2</sup> was rent by prolonged schism.<sup>3</sup> Nevertheless the church in England was at this time combating irregularity and disorder with determination and success, and particularly was dealing faithfully with the Wycliffite heresies: yet part of Wycliffe's teaching was still a real force in politics, or else was doctrine so agreeable that without cultivation it continually propagated itself, and found new spokesmen and new converts, for in the parliament of 1410 the commons talked a great deal about confiscating church property, alleging that of the goods wasted by prelates the king might have enough to maintain 15 earls, 1500 knights, 6200 esquires, and 100 almshouses, with £20,000 over for himself. Exactly where these great sums were to come from the promoters were unable to specify, and they got no profit beyond a severe rebuke from the king.<sup>4</sup>

When the schism was at last ended, and Martin V was engaged in re-establishing and reinforcing the pope's control over the church, he made great efforts to induce Henry VI's government to repeal the statutes of premunire and provisors:<sup>5</sup> "no such statutes, we imagine,

<sup>1</sup> *R.P.* III, p. 419, Michaelmas 1399: my translation.

<sup>2</sup> 1342-77: Clement VI (1342-52) was the original Avignon pope.

<sup>3</sup> 1378-1417. In 1378 there were two popes: in 1409 there were three.

<sup>4</sup> J. Gairdner, *Lollardy and the Reformation*, I, pp. 63, 64: cf. *Chronicles of London* (ed. C. L. Kingsford), pp. 65 ff., where the date is given as 1407.

<sup>5</sup> Mr Waugh is inclined to think that it was exclusively *provisors* that Martin V and Eugenius IV were concerned about.

are passed against Jews or Saracens":<sup>1</sup> and a day or two later he raised the main issue—who has authority to delimit the competence of Church and state?<sup>2</sup>—when he wrote to Henry Chichele archbishop of Canterbury: "Look at that royal statute, if it be rightly called a statute, or rightly royal. For how can that be a statute which is against the laws of God and the Church?"

Chichele continued to act as if it was a statute, and even to go further in opposing papal provisions, so that Martin sent a nuncio with bulls suspending him from his office of *legatus natus*<sup>3</sup>: but the messenger was imprisoned and released on bail only after he had sworn not to attempt anything against the king or his statutes. Finally, on 30 January 1428, Chichele and his brother of York, with five other bishops and a couple of abbots, proceeded to the house of commons and

laid before them the question of the abolition of the Statute of Provisors, showed what might be said for the Pope's contention, and urged them for the weal of their souls and the peace of the kingdom to weigh the matter carefully, warning them, even with tears, of the danger of ecclesiastical censures. He and the other prelates then withdrew, and a notarial instrument was drawn up to record what he had done, doubtless as evidence to satisfy the Pope that he could do nothing more. His own and his brethren's entreaties seem to have been utterly ignored, as nothing whatever is said about the incident in the Rolls of Parliament.<sup>4</sup>

It is impossible to wonder at Martin V's bitterness when he said, "It is not the Pope but the King of England that governs the Church in his dominions".<sup>5</sup> And in spite of Martin's efforts things were getting worse, for it seems to have been some time in the fourteen-thirties that the statute of 1393 was rediscovered, and vigorously used to restrict the English ecclesiastical courts, and by the fourteen-forties "it was

<sup>1</sup> *Lollardy and the Reformation*, I, pp. 138, 139.

<sup>2</sup> In 1391 Boniface IX had solemnly annulled the statute of Carlisle and the statutes of 1351 and 1390 against provisors: Waugh, *E.H.R.* xxxvii, p. 181.

<sup>3</sup> Every archbishop of Canterbury was *legate by nature*.

<sup>4</sup> *Lollardy and the Reformation*, I, p. 143 (referring to Wilkins's *Concilia*, III, p. 483, and Burnet, *History of the Reformation*, IV, p. 159), and earlier pages: Gairdner adds, "The action of the prelates, indeed, was not at all parliamentary", but this comment seems a little rashly to adapt nineteenth-century language to fifteenth-century conditions.

<sup>5</sup> Quoted by T. D. Ingram, *England and Rome*, p. 123.

generally understood to refer to all documents prejudicial to the Crown if they came from abroad, while the secular courts held that it applied to all such documents irrespective of their sources".<sup>1</sup>

At the same time, however much the English state might practically restrict ecclesiastical jurisdiction and administration, this was no sort of evidence of any doubt in the mind of the English church about its obligation to canon law or its subordination to papal lordship: on the contrary, the very purpose of anti-ecclesiastical legislation was in part to protect English ecclesiastics against themselves, to incapacitate them from submitting to the rule of the curia, as was well remembered in Henry IV's time.<sup>2</sup> In Edward IV's time the clergy got something which must have sharpened their consciousness of being members and functionaries of a distinct and even independent society, when (on 2 November 1462) royal charter confirmed their privileges, particularly the privilege of being tried in ecclesiastical courts.<sup>3</sup>

But the main point is that there was in the England which was emerging from the Middle Ages a well-established royal policy of permitting only such exercise of papal authority as seemed to the king respectful of royal rights and interests, and the mode of adapting that policy to changing conditions and of maintaining its legality was by parliamentary enactment, and the mode of enforcing it was by managing clerical appointments and by controlling the circulation of persons and documents sent from the pope. It was not, indeed, the only tradition: Martin V thought it worth while to reproach Henry VI with the memory of Thomas Becket,<sup>4</sup> and St Thomas was certainly a popular saint: rebels in 1489 declared that they were withstanding persons who went about "to destroy our Sovereign Lord the King and the Commons

<sup>1</sup> Waugh, *E.H.R.* xxxvii, p. 203.

<sup>2</sup> Cf. F. W. Maitland, *Roman Canon Law in the Church of England*, esp. p. 69 n., referring to the case of *R. v. Chichele* (Y.B. 11 H. IV, fol. 77), where it was stated that patrons precluded from making appointment by papal provision might have sued *quare impedit* or *praemunire facias*, but that the "Statute of Provisors was made because the spiritual patrons were in some sort disturbed, and dared not, because of the pope, sue for their right in the king's court". Cf. also pp. 115 ff. below.

<sup>3</sup> Cf. Cora Scofield, *Life and Reign of Edward IV*, I, p. 282 and II, p. 392, with references to Rymer, XI, pp. 493-6; Wilkins, *Concilia*, III, pp. 583-5.

<sup>4</sup> *Lollardy and the Reformation*, I, p. 140.

of England for such points as St Thomas of Canterbury died for";<sup>1</sup> perhaps few of them could have explained what those points were, yet at least there was a popular recollection that they were good cards to play. But Chichele was much nearer than Becket, and if Henry VII found that political and ecclesiastical authority worked very well together, it was because the latter never refused to stand by the former: no doubt if Henry VII had proposed an ass for bishop he might have found difficulties: but in effect all episcopal appointments lay virtually with him, and papal powers were always used as he requested.<sup>2</sup>

Moreover, the sort of people to whom it was still useful to cry "St Thomas and liberty" were not at the beginning of the sixteenth century a rising force: the sort of people by whose support a policy could make its fortune were much less those to whom the Church appeared as a large-scale holder of liberties great and permanent enough to be a protection to their small and precarious liberties than those to whom she appeared as a large-scale holder of properties, some of which might be added to theirs. This way of looking at the church was not new either. As long ago as 1307 the parliament, seeking protection against the oppressions (i.e. provisions, etc.) "which the Apostle caused to be done in this Realm", argued<sup>3</sup> with much historical truth, that "holy Church in all these estates of Prelacy in this Realm was founded by the King and by his ancestors, and by the said Earls, Barons, and their ancestors": the purpose of the foundation was recognised well enough, "to teach them and the People of the faith of God, and to make prayers, and alms, and hospitalities", and the point of the argument as yet was to preserve to lay patrons their right of presentation:<sup>4</sup> but this was a view which might be trusted to keep itself alive as a sentiment, even if it were not kept alive as a theory. Wycliffe, with his opposition between the "estates of Prelacy" and "the faith of God", gave it a new force, some of which remained with it

<sup>1</sup> *Paston Letters*, III, p. 916: some such allegation seems to have been not uncommon: cf. Warbeck's proclamation of July 1497, quoted by A. F. Pollard, *Henry VII*, I, p. 153, where he accuses his "great enemy and his adherents" of "breaking the liberties and franchises of our Mother Holy Church".

<sup>2</sup> Cf. *Henry VII*, p. 177.

<sup>3</sup> *R.P.* I, p. 219.

<sup>4</sup> And the petition did not become a statute, though it was afterwards thought to have done so: Waugh, *E.H.R.* XXXVII, p. 204.

even in the minds of those who were most suspicious of heretics and innovators, or most ignorant of Wycliffe.

It was indeed the germ<sup>1</sup> of the theory that as the secular authorities had presented and preserved to the church her material resources, so they were entitled to assume some rights over them and to keep an eye on their employment, even perhaps in the last resort to transfer them from unworthy hands to others that might exploit them better. This germ received an important development and began its career in the field of practical politics when the alien priories,<sup>2</sup> attacked already in the fourteenth century, were in 1416 dissolved, and their lands vested in the crown.<sup>3</sup>

That career was facilitated by the fact that the period ending the fifteenth century and beginning the sixteenth was one of debility for monasticism. It is not necessary here to enquire into the charges of corruption brought against the religious orders: it is clear enough, and sufficient for the present purpose, that by the beginning of the Tudor age they had ceased to be the favourite channel of benefaction, they had already begun to be surpassed in the minds of the pious by other institutions, considered as machinery for turning material goods to spiritual profit:<sup>4</sup> and so it happened, for instance, that in 1524 and 1528 Wolsey and his master, with papal consent, suppressed some dozens of small monasteries<sup>5</sup> and diverted their incomes to educational

<sup>1</sup> The Order of the Temple was indeed suppressed in England in 1312, with large profit to Edward II and his nobles, but it was the pope who did it: cf. *Political History of England, 1216-1377*, by T. F. Tout, pp. 254-6.

<sup>2</sup> Religious houses in England depending on foreign monasteries.

<sup>3</sup> In spite of Henry IV's rebuke to the promoters of disendowment a few years before: cf. p. 104 above.

<sup>4</sup> But monasteries had not ceased to be legates: friars were more popular than monks.

<sup>5</sup> Hall, II, p. 48, under date 1525-6, writes of an attempt riotously to reinstate canons in a suppressed Sussex monastery, and of its punishment by the council; and goes on "The Cardinal about this season, by his power Legatine, sent a Chaplain of his, called Dr John Allein, a man of more learning than virtue, or good conscience, to visit all places religious... and took such great sums for his visitation... The common people spake much against this, and also they said, that the Cardinal by Visitations, making of Abbots, probates of testaments, granting of faculties, licenses, and other pollings in his courts legatine, had made his treasure equal with the king's, and yet every year he sent great sums to Rome: this was their communication, ever against the Cardinal, and his high authority, and the spiritual men most disdained it".

purposes: certainly there is no reason to suppose that the cardinal had then any intention of injuring the Church, and indeed Wolsey so far as his action then was present to his mind at all in relation to the authority of the see apostolic, no doubt thought himself "very zealous for its [i.e. that authority's] preservation—having done and still doing for it very great services", as Campeggio wrote at the end of October 1528, and<sup>1</sup> not only for the reason that Campeggio alleged—"because all his grandeur is connected with it". But perhaps Henry was already by that time quite pleased to be destroying monasteries for the sake of destroying monasteries, and the more for the sake of annoying the pope:<sup>2</sup> he accused Wolsey of getting the monasteries to subscribe to his college by improperly using his legatine authority in their favour: "These same religious houses would not grant to their sovereign in his necessity,<sup>3</sup> not by a great deal, so much as they have to you for building of your college. These things bear shrewd appearance; for, except they were accustomed to have some benefit for it, they and no other that ever I heard of have used to show that kindness; *tam enim est aliena ab eis ipsa humanitas*":<sup>4</sup> and Henry went on to assure his minister that he would forgive him the more readily because he expected from him "a thing much more acceptable to me", i.e. the declaration of nullity.

The possibility, then, of diverting ecclesiastical endowments was familiar,<sup>5</sup> and if papal assent had been hitherto habitually required, that

<sup>1</sup> *L. and P. Henry VIII*, IV, no. 4881, p. 2113. Wolsey also said that if the divorce were not granted, papal authority in England would be annihilated.

<sup>2</sup> Miss E. Jeffries Davis speaks of his "extorting" a bull allowing dissolution in favour of Eton and King's. "The Beginning of the Dissolution", p. 127, volume VIII of series IV of the *Transactions of the R.H.S.*

<sup>3</sup> At the time of the Amicable Grant, 1525. And it the cardinal led the way in exploiting monastic wealth, so also he was adept in the use of premunire: he used fines so obtained to build on to the Star Chamber: "he argued in the exchequer chamber that the use of papal bulls that were void was an offence against premunire; and he threatened Warham and Nix with its penalties", A. F. Pollard, *Wolsey*, p. 249, cf. Keilwey, *Reports*, fols. 184 b, 190 b, 191 b.

<sup>4</sup> 11 July 1528, quoted by Brewer, II, p. 283.

<sup>5</sup> There had been instances of annexations, e.g. Henry VII had ruined St Martin's-le-Grand by annexing it to Westminster in aid of his new chapel. Miss E. Jeffries Davis (*R.H.S.* series IV, vol. VIII, p. 129) says that "to Londoners the only new point about Wolsey's suppressions was that they involved the complete extinction of the dissolved monasteries and the disuse of their churches"; but it was an important point.



might come to mean not that the pope would suffice to protect church property but that the hankering after church property might impair respect for the pope. The party of grandees who were Wolsey's principal political enemies were not Wycliffites nor Lutherans, but the French ambassador could write in October<sup>1</sup> 1529 that "these Lords intend, after Wolsey is dead or ruined, to impeach the state of the Church, and take all their goods; which it is hardly needful for me to write in cipher, for they proclaim it openly".

If they were so minded, or minded in a way which could be so described without any frantic exaggeration, it was not only that they were developing, or even parodying, an English strain of anti-clericalism and a baronial hankering after other men's lands, but they had with them also, besides the spirit of this world, whose wrongness and deceitfulness all can see save those who will not see, the spirit of the age as well, which is perhaps the same thing and is certainly capable of being as bad, but which is often invested with a spurious right by contemporaries anxious to harness its might. It was an age when the desire to lay field to field was uniquely strong, an age when both the capacity of religious orders to exploit landed property and the usefulness of their doing so appeared to be, and were, smaller than they had been, an age when the papacy, by its high degree of success in centralising administration and by its survival of the conciliar movement, had been able to envisage, and largely to embody, the conception of an uncontrolled legislature:<sup>2</sup> at the same time some kings, notably the English, had achieved a comparable centralisation and had elevated themselves as far above their estates as the pope himself above the other prelates. Corporations are in danger when they lie within the purview of an authority whose notions and powers of legislation are expanding: at the beginning of the sixteenth century English corpora-

<sup>1</sup> The 17th: *L. and P. Henry VIII*, IV, no. 6011.

<sup>2</sup> Cf. Cranmer's complaint in his examination before Brokes of the pope "boasting many times in his Canons and Decrees, that he can dispense 'contra Petrum, contra Paulum, contra Vetus et Novum Testamentum'; and that he 'plenitudine potestatis, tantum potest quantum Deus'": Jenkyns, IV, p. 113. Cf. *Henry VII*, p. 157 ff.; below, pp. 377, 211.

tions were in that danger:<sup>1</sup> ecclesiastical corporations especially, partly because they were especially worth attacking: no doubt they would have the pope to defend them, but they would have the strongest political class against them, and for both reasons were all the more likely to be attacked by a king committed to papal enmity.

Nor, long before Henry VIII was so committed, were there lacking signs that though he might be the most pious of kings yet he was as determined as any to maintain the *regnum* against the *sacerdotium*, royal jurisdiction against ecclesiastical. This was clear from the very beginning of the reign.<sup>2</sup> His parliaments early showed their inclination at least to maintain their jurisdictional boundaries: Peter Gryphius, sub-collector to the pope, arrived here on 1 February 1509 but was not allowed to exercise his office till just a year later, when he received permission "in the public assembly which they call parliament":<sup>3</sup> that same parliament declared void all papal bulls since 1215 exempting from payment of tithe.<sup>4</sup> In 1512 "Pope's men" was a convenient and justificatory insult to fling at Scottish merchants whose persons and

<sup>1</sup> Chap. 1. Cf. F. W. Maitland, *Canon Law in the Church of England*, p. 121, on jurisdictional controversies in the Church: "At the growth of the court of Rome's judicial power we cease to wonder when we see how uncertain, how hotly debated are the boundaries which mark off the spheres proper to the other [church] courts. The choice lay between anarchy and the *plenitudo potestatis*". Cf. Z. N. Brooke, *English Church and the Papacy*, p. 28, and *Henry VII*, pp. 153, 160-2, 164 n. 2, 166.

<sup>2</sup> In the directions for the coronation oath there was this sentence: "The King shall swear at his coronation that he shall keep and maintain the rights and liberties of Holy Church, of old time granted by the righteous Christian Kings of England". Henry with his own hand altered it to run: "The King shall then swear that he shall keep and maintain the *lawful* right and the liberties of old time granted by the righteous Christian Kings of England to the Holy Church of England, *not pre-judicial to his jurisdiction and dignity royal*". Ellis, *Original Letters*, series 2, vol. 1, p. 176, quoted by T. D. Ingram, *England and Rome*, p. 141: Ingram's italics. But A. F. Pollard suggests (*Henry VIII*, p. 275) that it was probably in 1533 that Henry "drew up his suggestion for altering the coronation oath, and making the royal obligations binding only so far as the royal conscience thought fit".

<sup>3</sup> *L. and P.* (1920), no. 1235.

<sup>4</sup> 2 H. VIII c. 4, summarised by A. Savine, *English Monasteries on the Eve of the Dissolution*, p. 108; where he also refers to J. Selden, *Tithes*, and points out that in spite of the statute bulls which it disqualified were frequently acknowledged in the ecclesiastical courts.

property were being ill-treated.<sup>1</sup> In the same year parliament invaded ecclesiastical precincts with a statute<sup>2</sup> according to which persons guilty of murder or robbery in church, highway or house should "be not from henceforth admitted to his or their clergy" unless they were actually in holy orders: this statute, indeed, was to endure only till the next parliament, and though in December 1515 a bill for its continuance was passed by the commons and read once by the lords, yet it got no further: perhaps because by that time the whole question of the relations between clergy and laity was so hot that the easiest thing to do with it was to drop it. One notable instance of friction was Hunne's case.

Richard Hunne,<sup>3</sup> tailor and freeman of London, resisted the claim of Thomas Dryfield, clerk, to have his dead baby's bearing-sheet as a mortuary, or burial fee. He was accordingly cited in the spiritual court, and he ("taking to him good counsayll")<sup>4</sup> tried to counter that by suing Dryfield in a *premunire*, on the ground that the spiritual court, being held by the legate's authority, was a foreign tribunal, before which Englishmen were not bound to answer. This plea to jurisdiction failed, receiving no support from the king's courts, and Hunne was left in prison, on a charge of heresy: on 4 December 1514 he was found dead, hanging by the neck from a beam in his cell in the Lollards' Tower at St Paul's, and "the bishop and his chancellor Dr Horsey, said that he hanged himself, and all the temporalty said that he was murdered".<sup>5</sup> A coroner's jury found that the cause of death was murder, and charged with it Dr Horsey and two of his underlings, of whom one made confession: and the bishop of London<sup>6</sup> showed what he thought of the terms on which clergy and laity lived

<sup>1</sup> *L. and P.* 1, no. 3320, referred to by A. F. Pollard, *Cranmer*, p. 28: in R. H. Brodie's (1920) edition of *L. and P.* the no. is 1297.

<sup>2</sup> 4 H. VIII c. 2: cf. J. Gairdner, *The English Church in the Sixteenth Century*, p. 42.

<sup>3</sup> Cf. above, p. 56.

<sup>4</sup> Hall, 1, p. 129. *Premunire's* usefulness in defence of the private citizen against ecclesiastical authority had not been neglected, cf. *L. and P.* 1 (1920), no. 1526 (referring to Cooper's *Annals*, 1, p. 294), Cambridge University to Fyneux C.J. K.B. for his favour against Rob. Smythe bailey of Cambridge, whom they had excommunicated for infringing privileges granted to them by kings of England and popes of Rome and who was seeking to purchase a writ of *premunire* against them, 1512.

<sup>5</sup> Hall, 1, p. 129.

<sup>6</sup> Cf. p. 117, n. 2, below.

in London by begging Wolsey to induce the king to have the whole matter referred to an impartial committee of his council, "for assured am I, if my chancellor be tried by any twelve men in London, they be so maliciously set *in favorem haereticæ pravitatis* that they will cast and condemn my clerk, though he were as innocent as Abel".<sup>1</sup> To this appeal the king acceded, and moreover proceedings for perjury were taken against the jury.

Meanwhile the bishop of London had taken action which was sure to give him one kind of triumph, even if it was hardly less likely to reinforce the resentment against the clergy than the sympathy with Hunne, already so well qualified to excite a pleasurable tear—this man who had been rich and unfortunate, who had mourned as a father, who had suffered first the extortion, then the persecution and finally the extreme malice, of a class which was largely privileged and which was only partially English: he might be a heretic, indeed, and heresy was a horrid thing, but it was queer that the charge of heresy should be hurled just when he was fighting for his rights as a man of property and his feelings as a father: and if the bishop of London was so free with his accusations of heresy, not sparing to accuse the whole city, they need not be taken as anything but calumny: indeed, on 17 April 1515 the court of aldermen appointed a committee "to speak with the bishop of London for certain perilous and heinous words . . . in a copy of a letter supposed to be written by the said bishop", which words were, to all appearance, the *in favorem haereticæ pravitatis* of the last paragraph.<sup>2</sup>

<sup>1</sup> Cf. *L. and P.* II, no. 2, and for all Hunne's case J. Gairdner, *Church in the XVIth Century*, p. 30; H. A. L. Fisher, *Political History*, pp. 208 ff., and E. Jeffries Davis, "The Authorities for the Case of Richard Hunne", in *E.H.R.* xxx, pp. 477 ff.: besides Hall, and Sir T. More's *Dialogue*.

<sup>2</sup> E. J. Davis, as above, p. 478, says "Probably the mass of his fellow-citizens never regarded him as a heretic at all . . .". And cf. London's opprobrious words in the house of lords about the coroner's jury, speaking against a bill concerning an appeal of homicide on behalf of Hunne's children. Cf. *Wolsey*, p. 40, and Hall. Polydore Vergil wrote on 3 March 1515 (*L. and P.* II, no. 215) to Cardinal Corneto bishop of Bath that a heretic had been executed by the bishop of London, creating a great outcry: there were very few who would pay Peter's Pence: parliament and convocation were now sitting, and he supposed they would "have to pay for the present war": some one (presumably Wolsey) was very unpopular, and there was a rumour that the king was only a boy, and signed papers unread

Perhaps Hunne had been cited for heresy before he sued his pre-munire:<sup>1</sup> anyway, now that he was dead and proving, dead, more dangerous than ever, the bishop of London resolved to lessen his attractiveness by registering his heresy: so, on Sunday, 16 December 1515, three bishops and twenty-five other divines sat in judgment on Hunne, and proclamation was made that any one who wished to defend him would be heard: no one thought it worth while to answer, and sentence,<sup>2</sup> based mainly<sup>3</sup> on an annotated copy of a forbidden English version of the Bible<sup>4</sup> found to have been in Hunne's possession, was pronounced against him, and on December 20 Hunne's body was burned. But the bishop's triumph did not much help his cause nor silence his critics: Hunne is a doubtful martyr, but his ashes showed which way the wind blew, and such winds draw added force from weather-vanes: a bill was promoted in parliament to declare the coroner's jury "true men", and there was a petition to the king in parliament for the regulation of mortuaries:<sup>5</sup> indeed, the anti-clerical leanings of this parliament formed, no doubt, one reason why Wolsey was anxious to have it early dissolved,<sup>6</sup> and why in the fourteen remaining years of his ministry only one more parliament was called.

Meanwhile a much more important case about the relations between lay and clerical jurisdiction had arisen, in the controversy between

<sup>1</sup> J. Gairdner, *Church in the XVIth Century*, p. 36: cf. A. F. Pollard, *Wolsey*, p. 32; Wriothesley, *Chronicle*, I, p. 9; Roy, *Rede me...*, pp. 104, 169.

<sup>2</sup> For final persistence in heresy: and, of course, the charge of final contumacy "depended on the assumption that Hunne destroyed himself, a question which the bishop's court had no authority to decide", A. F. Pollard, *Wolsey*, p. 35.

<sup>3</sup> And "on the evidence of unnamed witnesses taken by commission", A. F. Pollard, *Wolsey*, p. 35.

<sup>4</sup> Cf. below, p. 300.

<sup>5</sup> H. A. L. Fisher, *Political History*, p. 210: *L. and P.* II, no. 1315.

<sup>6</sup> Cf. *L. and P.* II, no. 1223, referred to by A. F. Pollard, *Cranmer*, p. 28. Cf. Roy, p. 104, for the sort of use that could be made of the Hunne incident:

"Men's goods wrongfully to seize  
They make heretics whom they please,  
By false relation of Summoners...  
...also by their confession,  
Which they tell in priests' ears";

and cf. Tyndale, *Works* (ed. T. Russell, 1831), II, p. 174.

Standish and Kidderminster. This same parliament in which efforts were made to rehabilitate Hunne and to alleviate his sentence was also that in which the commons tried, unsuccessfully, to make permanent the recent act curtailing benefit of clergy, and the resultant controversy produced language and ideas which were to prove the prelude to no less than a drastic rearrangement of the notions and institutions of English government, and especially to an entirely new precision of definition, though even that was never to become precise enough for simplicity.

The pope had hoped for an extraordinary supply from Convocation: but all the lower house would do was to remind him what sums he had already been granted, and how much safer he was since Henry's victories over the French, and to remind itself how dangerous were precedents of munificence, how much easier to open doors than to shut them. This was the language of John Taylor, prolocutor:<sup>1</sup> but though thus ready to resist papal exactions he was shocked at the language of other critics of ecclesiastical government: "In this convocation and parliament [he wrote] most perilous seditions arose between the clergy and the secular power over ecclesiastical liberties, a certain Minorite friar named Standish being the servant and stimulator of all ills".<sup>2</sup>

During the time of parliament (1515) the abbot of Winchcombe,<sup>3</sup> in a sermon at Paul's Cross, denounced the statute 4 H. VIII c. 24<sup>4</sup> as contrary to the law of God and the liberties of the Church, and the lords who were parties to it as subject to the censures of the Church. So the king, at the request of the lords, took counsel of divers divines: and Standish maintained that the act was not against the liberty of the Church, as it was for the weal of the whole realm:<sup>5</sup> even if there were

<sup>1</sup> Of the lower house of convocation: he was also clerk of the parliaments. Cf. above, pp. 15, 51, 57.

<sup>2</sup> *L. and P.* II, no. 1312, referred to by Brewer, I, p. 250. For Standish's connection with the xenophobe riots of "Evil May Day" (1517), cf. p. 39 above: he was Warden of the Mendicant Friars.

<sup>3</sup> His name was Kidderminster: he was appointed to preach by the bishop of London who was, and who chose Kidderminster as, a leader of the clerical side.

<sup>4</sup> Certain classes of murderers and felons "not from henceforth admitted to his or their clergy, such as be within holy orders only excepted".

<sup>5</sup> L. C. Gabel, *Benefit of Clergy in England*, p. 98, points out "the overwhelming proportion of successful purgations registered" in the church courts.

a decree against it, there were other Roman decrees not obeyed in England, and this particular one had never been recognised here. The lords, having heard both sides, desired the bishops to cause the abbot to make an open recantation, but they refused, saying that they were bound by the law of the church to maintain his opinion.

In Michaelmas Term Standish was cited before Convocation to answer these articles: (1) Whether it was lawful for a temporal judge to convent clerks: (2) Whether minor orders were sacred: (3) Whether a constitution by pope and clergy bound a country where usage had been to the contrary: (4) Whether a temporal prince could coerce bishops who refused to punish their clergy. Standish appealed to the king, and the clergy then said that it was not because of what he had said in counsel, but for certain lectures delivered since, that they were proceeding, and they prayed the king's help according to his coronation oath. By the same adjuration the temporal lords besought him to maintain his temporal jurisdiction and to shield Standish from the malice of the clergy. A council of lawyers, lay and ecclesiastical, was held at Blackfriars. One of Standish's arguments was that no law was absolute, without limitation of time or place, and Dr Vesey, dean of the king's chapel, illustrated the truth of this by pointing out that in former ages secular priests in England had been allowed to marry, and that in the East they had never ceased to do so.

The judge decided that all the members of Convocation who had participated in the proceedings against Standish were subject to *premunire*, and that the king could hold a parliament by himself and the temporal lords and commons, without the spiritual lords,<sup>1</sup> who had no place there but by reason of their temporal possessions. The archbishop of York prayed that the matter might be determined by the pope and his council. The bishop of Winchester said, "Sir, I warrant you Dr Standish will not abide by his opinion, at his peril".<sup>2</sup> The archbishop of Canterbury recalled how many holy fathers had resisted this

<sup>1</sup> Cf. p. 170 below, passage of the first Act of Annates.

<sup>2</sup> Standish replied, surely not without irony, "What should one poor friar do alone, against all the bishops and clergy of England", and indeed it was clear that before any ecclesiastical tribunal his cause was prejudged against him.

claim of the secular government's, some to the point of martyrdom. Fineux, chief justice of the king's bench, rejoined that the conventing of clerks had been practised by many holy kings. And finally the king pronounced as follows:

We are, by the sufferance of God, King of England, and the Kings of England in time past never had any superior but God; know, therefore, that we will maintain the rights of the crown in this matter like our progenitors; and as to your decrees, we are satisfied that even you of the spirituality act expressly against the words of several of them, as has been well shown you by some of our spiritual council. You interpret your decrees at your pleasure; but as for me, I will never consent to your desire, any more than my progenitors have done.<sup>1</sup>

Meanwhile Horsey,<sup>2</sup> whom a lay jury had charged with murder, remained under ecclesiastical ward, and so he stayed till he was arraigned in the king's bench, when he pleaded "not guilty" and the plea was admitted by the attorney-general:<sup>3</sup> and similarly the bishops promised the king that Standish should be released.

All this, like the Tudor accession and like Henry VIII's marriage, raised the fundamental questions of civilised politics—what is the source of law? the limits of its competence? the possibility of dispensing with it? the criterion of its meaning? Nor was the generality of the controversy lost in the pettinesses and personalities of its occasion. Horsey and Standish went free alike (though no doubt the one with smaller hopes for the future than the other), and the statute cutting down benefit of clergy was not at once renewed. Both parties stuck to the main point. If Henry did not say what he is reported as having said, it is highly probable that it is exactly what he thought and that

<sup>1</sup> *L. and P.* II, nos. 1312, 1313, esp. p. 353.

<sup>2</sup> Cf. p. 112 above: he was the bishop's chancellor and responsible for the safe-keeping of Hunne: Charles Joseph, the gaoler, had at first tried to prove that he spent the relevant night in a brothel, but, when that was disproved by evidence, confessed and implicated Horsey. It was then that the bishop of London (above, p. 113) maligned the coroner's jury and talked about Abel.

<sup>3</sup> And A. F. Pollard, *Wolsey*, p. 330, writes "he [Wolsey] stalled off the agitation over the cases of Hunne and Standish by appealing to Rome and obtaining a papal bull to restrict admission to lower orders, and postponed till after his fall the renewal of the anti-clerical act of 1512": cf. above, p. 56.



he said something very like it.<sup>1</sup> And the prelates denied that they had said

that the conventing or punishment of clerks should not appertain to secular judges (as they said not, nor in any wise intended to treat of that matter), yet they thinketh themselves, though they had so done, not to have fallen thereby into any penalty of any law, statute, or act; forasmuch as at sundry times divers of the parliament speaketh divers and many things not only against men of the church and against the laws of the church, but also sometimes against the king's laws, for the which neither the king nor the prelates of the church have punished them, nor yet desireth any punishment for their so speaking. Wherefore the said prelates thinketh, that it may be as lawful to them in the convocation-house to commune and treat of things concerning both laymen and also the laws of the land (though they do not) without falling into any penalty of any statute or act, or yet any other punishment in that behalf, as it is for them of the parliament to commune and treat of any causes sowning against the clergy and laws of the church.<sup>2</sup>

Heresy, they said, they were bound by their oaths to investigate, and they had proceeded against Standish<sup>3</sup> for nothing else: "the demanding of such a question as this *An exemptio clericorum sit de jure divino, aut non?* affirms neither one nor the other, and cannot therefore be contrary to the king's laws".

Henry did not forget Standish, and in April 1518 Pace wrote about the bishopric of St Asaph to Wolsey, then at the height of his favour and with a candidate of his own for the see, that the king was likely to give "Saint Asse to Friar Standish; whereof I would be right sorry for the good he was like to do to the church. Erit tamen difficile huic

<sup>1</sup> The account in *L. and P.* II, no. 1313, is taken from Keilwey's *Reports*, fol. 180. This book was not published till 1602, but its author lived from 1497 to 1581 (*D.N.B.*), so that it is contemporary authority of a sort.

<sup>2</sup> *L. and P.* II, no. 1314, my spelling.

<sup>3</sup> If he was a morning-star of Henricianism, of Protestantism he was not, and the Protestants did not make any mistake about him: e.g. Roy, p. 117:

"Who played the part of Judas?  
The holy bishop of St Asse,  
A post of Satan's jurisdiction,  
Whom they call Dr Standish,  
One that is neither flesh nor fish,"

and so on, very abusively.

rei obstare (ut mihi videtur) quia majestas regia illum mihi jampridem laudavit ex doctrina, et omnes isti domini aulici eidem favent de singulari quam navavit opera ad ecclesiam Anglicam subvertendam".<sup>1</sup>

With these memories from the earlier ecclesiastical history of the reign, it is time to return<sup>2</sup> to the point where the king's matrimonial difficulties were to give that history a new and decisive twist. The legatine court, wrote Cavendish,<sup>3</sup> "was the strangest and newest sight and devise that ever was read or heard in any history or chronicle in any region; that a king and a queen to be convented and constrained by process compellatory to appear in any court as common persons within their own realm or dominion, to abide the judgment and decrees of their own subjects, having the diadem and prerogative thereof". It was a reflection likely to occur to Henry himself as soon as he was convinced that the compellatory process to which he had been submitting was not even going to have the right result: and it was a reflection that could not remain alone, could not fail to call to consciousness the anti-clericalism of lords and commons, the enviability of the church's property, the historic claims of the English crown, *premunire*, the serviceability of parliament, the absence of any authority to set bounds to what statute could do, the possibility of looking elsewhere than to Rome for direction in theological and moral difficulties: this last was a possibility which might be contemplated without surprise by a generation that had hardly forgotten the Conciliar Movement and that had before its eyes the spectacle of a heresiarch (the most dangerous<sup>4</sup> who had appeared for centuries, and, as it was to prove, the most dangerous of all) convented not before the pope but before the emperor, and appealing to a council against pope and emperor alike.

<sup>1</sup> Brewer, I, p. 250, referring to *L. and P.* II, no. 4074.

<sup>2</sup> Cf. p. 98 above.

<sup>3</sup> In 1557, in his *Life of Wolsey* (Temple Classics ed.), p. 105.

<sup>4</sup> Or a reformer, the most beneficent: which Luther was, does not, for the present purpose, matter.

## CHAPTER VIII

### THE FALL OF WOLSEY

The first effect of Henry's resolve to apply to some other source than Rome for the decision which he meant to have at any cost was the ruin of Wolsey. In February 1529 Clement VII was very ill, and was believed in England to be dead: royal instructions were sent to Gardiner to use every effort for the election of Wolsey to the papacy, and warnings from Wolsey himself that there were no other means of preserving the Church's authority in England.<sup>1</sup> In July Darcy, who had used Wolsey's rise to help his own and who was to lose his head in the movement which Wolsey's fall began, drew up ("only for to discharge my oath and most bounden duty to God and the King, and of no malice") a long list of accusations against him:<sup>2</sup> about July 23, the date of the legatine court's adjournment, Wolsey was aware of the utter hopelessness of getting anything from Rome, or at least of getting anything which the king would take (a license for bigamy being one expedient which Clement was and Henry was not willing to discuss<sup>3</sup>). On the court's adjournment that day Suffolk was not afraid to show, in the most public and uncompromising manner and with the apparent approval of the king, his belief that the cardinal was no longer formidable: "It was never", quoth he, "merry in England while we had cardinals among us".<sup>4</sup> Gardiner<sup>5</sup> was condescending from the height

<sup>1</sup> J. A. Muller, *Stephen Gardiner and the Tudor Reaction*, p. 29, referring to N. Pocock, *Records of the Reformation*, II, pp. 590, 607.

<sup>2</sup> *L. and P.* IV, no. 5749, 1 July 1529.

<sup>3</sup> *L. and P.* vol. IV, pt. III, no. 5179. Cf. *L. and P.* no. 6627, 18 Sept. 1530, pope again suggesting bigamy. In Wolsey's instructions for Brian and Vannes (when they went to Rome in Dec. 1528) the least eligible of various solutions suggested for their submission to the pope were "Quod regina ingrediente religionem papa [possit] dispensare ut aliam [rex] ducat cum legitimatio[ne] prolis" and "Quod possit duas ducere uxores cum legitimatio[ne] prolis ex secunda". N. Pocock, *Records of the Reformation*, I, p. 189.

<sup>4</sup> G. Cavendish, *Wolsey*, p. 122.

<sup>5</sup> On July 28 secretary: he first made that station a great office and especially a centre of the diplomatic service.

of the king's favour to address a tottering Wolsey, and to address him on a terrible subject, the papal advocacy, and the means how it might be made not to "irritate the King's highness and his nobles", since "a king in his own realm may not be violently [used]".<sup>1</sup> The failure of Wolsey's policy was a known fact which was being reckoned with.<sup>2</sup> His personal failure could not be long delayed, and during August every one was falling away from him. On 6 August 1529<sup>3</sup> Gardiner wrote to Wolsey from the king for the names of the borough towns. On August 9 writs were ordered for a parliamentary election<sup>4</sup> which, his enemies hoped, would enable them to strike the final blow, and whose management was at least partially entrusted<sup>5</sup> to his arch-enemy, Norfolk. During August and September Henry's itinerary, ruled by the season, and, when necessary, by the Boleyn-Howard party, kept him remote from London and from the risk of personal contact with Wolsey.<sup>6</sup> When, on September 19, king and cardinal met at Grafton,<sup>7</sup> there seemed a chance of reconciliation: but yet Norfolk thought well to insult Wolsey to his face before the courtiers, and Anne Boleyn to revile him to the king before the servants:<sup>8</sup> and they had reckoned right, for next morning Wolsey was dismissed without being allowed to see the king. Resignation, as a way of escape for unsuccessful ministers, was not yet invented: the holder of every office required, when he laid it down, the royal pardon for all offences of which he had been ignorantly and involuntarily guilty: Wolsey, who had done more if not better than any man, could now do nothing but await what might be done to him.<sup>9</sup>

<sup>1</sup> *L. and P.* IV, no. 5821, referred to by Brewer, II, p. 366; the last word is missing.

<sup>2</sup> Catharine had reported it to Mendoza, who passed it on to Charles V on July 30: Brewer, II, p. 370, referring to *L. and P.* IV, p. 2593.

<sup>3</sup> *L. and P.* IV, no. 5831.

<sup>4</sup> Henry used it, characteristically, for minor diplomatic purposes: his ministers tried to hurry up the French government's dealing with the question of the Dieppe buccaneers by saying that "they expect that great complaints will be made about them by the people of this Parliament".

<sup>5</sup> E.g. IV, no. 5993, Gardiner to Wolsey, to send the king the writs for Nottingham and Derby, "which he intends shall be sent by the hands and advice of Norfolk".

<sup>6</sup> *L. and P.* vol. IV, pt. III, no. 5965, referred to by Busch.

<sup>7</sup> Henry had consented to receive the legates only on condition that they came "without any sort of pomp or ceremony" (*Sp. Cal.* 1529-30, pp. 214, 235, 253, 257).

<sup>8</sup> G. Cavendish, *Wolsey*, pp. 127, 128.

<sup>9</sup> Cf. Brewer, II, p. 371.

The other cardinal, too, learnt the unpleasantness of any English residence without the favour of the English king. Towards the end of October 1529 he was allowed to cross the Channel, but not before his baggage had been searched (in the hope chiefly, no doubt, of finding the decretal commission<sup>1</sup> which might be used as giving papal authority enough for the king's purpose), and his protest had been answered with great ungentleness to himself and with ominous innuendoes against the authority he represented:

As to your legateship [wrote the king], no wrong has been done you by me or mine. Your authority only extended to the termination of my cause; when that was revoked by Papal inhibition it expired, and neither I nor my subjects admit that you have any other. I wonder you are so ignorant of the laws of this country, seeing you are a bishop here, and bound to respect my royal dignity, as not to be afraid to use the title of legate when it has become defunct. . . . As to the other part of your complaint [of being calumniated by rumours that he and Wolsey were guilty of collusion in the matrimonial suit], it would be hopeless for you to stay here in expectation of having it redressed by any process.<sup>2</sup>

It would indeed: and Campeggio, who after all was an English bishop even if he was an Italian priest, was lucky that Henry was not yet clear in his mind about the full logic of his new position, not yet wholly aware that the worst offence of all for an English bishop was precisely the exercise of an authority from the pope, not the exceeding of it. Norfolk was a little nearer to what was to prove the true orthodoxy when he said to Wolsey, "A straw for your legacy! I never esteemed your honour the more or higher for that! But I regarded your honour for that ye were Archbishop of York and a cardinal. . .".<sup>3</sup> Wolsey could not cross the Channel, and he was to be not merely reproached with exceeding a delegated authority but condemned for having purported to have one.

<sup>1</sup> Cf. p. 90 above: it had been destroyed long ago: cf. Wm. Busch, *Historisches Taschenbuch*, 6<sup>te</sup> Folge, 9<sup>ter</sup> Jahrgang, 74.

<sup>2</sup> Henry VIII to Campeggio, 22 Oct. 1529, *L. and P.* iv, p. 2677, probably composed by Gardiner.

<sup>3</sup> G. Cavendish, *Wolsey*, p. 157.

At the end of August 1529 the matrimonial cause was suspended till Christmas and advoked to Rome.<sup>1</sup> On October 7 Clement<sup>2</sup> wrote to Henry assuring him of the legal weakness of his case, and beseeching him to think of the Turks. This letter had not reached England when Michaelmas term began, but it was not necessary: Henry's hopes of the pope were already moribund enough.

October 9 saw the last of Wolsey's state:<sup>3</sup> it was the first day of Michaelmas term and he went to Westminster Hall, as lord chancellor, with his usual train that day; but never again, for that day he was indicted<sup>4</sup> in the King's Bench for premunire, and that day<sup>5</sup> when he applied once more for pardon to his "most gracious and merciful Sovereign lord" he signed himself still "Cardinal of York",<sup>6</sup> but added *Miserrimus*. A few days later he refused to give the Great Seal to Norfolk and Suffolk, because it "was delivered me by the king's own person, to enjoy during my life... for my surety whereof, I have the king's letters patent to show", and also because word of mouth was an insufficient commission.<sup>7</sup> But next day they came back with letters from the king,<sup>8</sup> and Wolsey surrendered.<sup>9</sup> "These lords intend", wrote the French ambassador, "after he is dead or ruined, to impeach the state of the Church and take all their goods."<sup>10</sup>

But so far the bishops were with them, and specially terrible to Wolsey:<sup>11</sup> perhaps partly for this reason, but probably more because attainder might be mortal whereas the penalties under his indictment

<sup>1</sup> *L. and P.* vol. IV, pt. III, nos. 5878, 5916, referred to by Busch, p. 80.

<sup>2</sup> *L. and P.* vol. IV, pt. III, no. 5994: the dispensation was a positive and not a divine law, and if the queen (as she affirms) was not known by prince Arthur, no doubt the dispensation was perfectly sound *in foro conscientiae*.

<sup>3</sup> On the third councillors in London had met at Wolsey's house, to do business with the French ambassador, *L. and P.* IV, no. 5982.

<sup>4</sup> He had protected Warham when chancellor from a suit in Common Pleas, "for then the Common Pleas should have superiority upon the Chancellor" (*L. and P.* III, no. 751, 19 Apr. 1520): now a chancellor and a legate *a latere* was subordinated to King's Bench, and there was no grand umpire of jurisdictions to put it right: and cf. p. 125 below. There was a further indictment on Oct. 20.

<sup>5</sup> Or the next, cf. A. F. Pollard, *Wolsey*, p. 243.

<sup>6</sup> Or rather T. Card. Ebor.: for all this paragraph, see Brewer, II, pp. 378, 379.

<sup>7</sup> G. Cavendish, *Wolsey*, p. 132.

<sup>8</sup> And with Fitzwilliam, John Taylor, and Gardiner.

<sup>9</sup> *L. and P.* I, no. 6025.

<sup>10</sup> No. 6011.

<sup>11</sup> No. 6018.

did not extend to death,<sup>1</sup> Wolsey did not hesitate too long to appear by attorney<sup>2</sup> in king's bench. On October 22, although he told the judges he had the king's license in his coffers "for exercising and using the authority" of his "prerogative legatine",<sup>3</sup> yet Wolsey signed an indenture<sup>4</sup> acknowledging that on the authority of bulls from the court of Rome

by which he was made legate, and which he published in England contrary to the statute, he has unlawfully vexed the greater number of the prelates of this realm, and other of the King's subjects, thereby incurring the penalties of *premunire*, by which also he has deserved to suffer perpetual imprisonment at the king's pleasure, and to forfeit all his lands, offices, and goods. He prays Henry, in part recompense of his offences, to take into his hands all his temporal possessions, all debts due to him, and all arrears of pensions and presentations to benefices, and covenants to make further assurance when required.

Two days later (24th Oct. 1529) the king, with Anne Boleyn and her mother, went to inspect the cardinal's goods: the imperial ambassador reported to Charles V (in a despatch which told also how "Those who are now in most credit are the dukes of Norfolk and Suffolk", and how every one about the king was "saturated with French money"<sup>5</sup>) that Henry found the cardinal's effects "much greater than he expected": but this seems rather to have whetted his appetite, for he, or Anne, determined on taking York Place, the London house of the archbishops of York; so he "sent for all the judges, and for all his learned counsel, to know their opinions in the assurance thereof; in whose determinations it was fully resolved, that [Wolsey] should recognise, before a judge, the right thereof to be in the king and his successors". Accordingly William

<sup>1</sup> A. F. Pollard, *Wolsey*, p. 244.

<sup>2</sup> For which Henry had specially licensed him: any appearance would be acceptance of jurisdiction.

<sup>3</sup> G. Cavendish, *Wolsey*, p. 154.

<sup>4</sup> The quotation is of the abstract in *L. and P.* iv, no. 6017, referred to by Brewer, II, p. 384.

<sup>5</sup> *L. and P.* iv, no. 6026, Oct. 25: Chapuys reports also that Dr Stokesley had been sent to France to consult the doctors of Paris about "this king's affair": Catharine begs Charles V to do the same: "She thinks that delay will be more dangerous than profitable and therefore we have thought it desirable not to consent to the postponement demanded."

Shelley, judge of the common pleas, was sent to the cardinal, who answered him thus:

I know that the king of his own nature is of a royal stomach, and yet not willing more than justice shall lead him unto by the law. And therefore I counsel you . . . put no more into his head than the law may stand with good conscience; for when ye tell him, "this is the law", it were well done you should tell him also that, although this be the law, yet this is conscience; for law without conscience is not good to be given unto a king in counsel to use for a lawful right . . . therefore, in his royal place of equal justice, he hath constitute a chancellor . . . [whose court] hath jurisdiction to command the high ministers of the common law to spare execution and judgement . . . Therefore I say to you in this case, although you, and other of your profession, perceive by your learning that the king may, by an order of your laws, lawfully do that thing which ye demand of me; how say you, Master Shelley, may I do it with justice and conscience, to give that thing away from me and my successors which is none of mine? . . .<sup>1</sup>

And after a little more discussion he said

. . . I will in no wise disobey, but most gladly fulfil and accomplish his princely will and pleasure in all things, and in especial in this matter, inasmuch as ye, the fathers of the law, say that I may lawfully do it. Therefore I charge your conscience and discharge the mine. Howbeit, I pray you, show his majesty from me, that I most humbly desire his highness to call to his gracious remembrance, that there is both heaven and hell.<sup>2</sup>

On 30 October 1529 the court of king's bench<sup>3</sup> gave judgment that

<sup>1</sup> Cf. *Henry VII*, p. 140; below, p. 102, John's alleged surrender to the pope of his kingdom.

<sup>2</sup> G. Cavendish, *Wolsey*, pp. 159 ff.

<sup>3</sup> *L. and P.* iv, no. 6035, the indictments were found good in the king's bench: they charged him with making presentations to livings belonging to other patrons, with causing the wills of persons dying in other dioceses than his own to be proved before his commissioners, instituting legatine visitations, surreptitiously procuring pensions from abbots by legatine authority. Cf. Darcy's accusations, p. 120 above; and cf. A. F. Pollard, *Wolsey*, p. 177, Cantuar. accused of premunire, Cov. of high treason, Winton. and Norvic. exempted from pardon, Stokesley sent to the Fleet Prison: p. 179, bulls to reform religious and secular clergy: pp. 186 and 191, convocations superseded by legatine council, and how: pp. 192, 193, 194, his invasion of episcopal, especially testamentary, jurisdiction, and the resentment of it: p. 198, his visitations, and accompanying 4 per cent. levies on income: pp. 200-3, his replace-



Wolsey, by procuring bulls to make himself legate contrary to the statute 16 R. II c. 5 and by his exercise of that office, had forfeited the king's protection and all his lands and goods.

It was the end of a government, and the new one was very different. Norfolk became president of the council, and Suffolk vice-president: Gardiner, secretary, got Wolsey's bishopric of Winchester, but he was the only ecclesiastic left in an important political position, and even the great seal went to a layman, Thomas More.<sup>1</sup> Cuthbert Tunstall soon after<sup>2</sup> gave up his bishopric of London to John Stokesley, an ardent enemy of the Spanish marriage, being promoted to Durham but at the same time surrendering the privy seal to Anne's father. This set of men who took Wolsey's place in the king's confidence, or as much of that place as ever was taken again, was, then, overwhelmingly hostile to the Roman hierarchy and to Spanish policy, none the less because

ment of conventual election by legatine nomination: pp. 204-8, his control of benefices: pp. 315-17, his habitual violence. Cf. p. 141 below, the articles against him in parliament. On Oct. 27 he appointed his attorneys, who appeared on the 30th and pleaded that he did not know the obtaining of the bulls to be in contempt or prejudice of the king, or against any statute of provisors, but submitted to mercy: judgment that he should be out of the king's protection, and forfeit all lands and goods.

<sup>1</sup> On Oct. 19 the laymen were for the first time placed on the right of the chair in the Star Chamber, the churchmen on the left. Apparently Warham declined the chancellorship on the ground of age, and it was rumoured that Suffolk was black-balled by Norfolk as being too much of a grandee (A. F. Pollard, *Wolsey*, p. 255, referring to Chapuys, but I cannot believe that Henry would have given it to Suffolk anyway). "It had been recognized, at least from the middle of the 15th century, that the relations of law and equity were so close that the united efforts of the chancellor and the common lawyers were needed to settle them satisfactorily" (Holdsworth, v, p. 220): perhaps this was one of the reasons, and perhaps the wish to conciliate the common lawyers was another, why the Great Seal was given for the first time to a common lawyer, More. There was an interval of a few days, during which Henry used the seal himself: *L. and P.* iv, no. 6025. Du Bellay wrote (Oct. 22), *L. and P.* iv, no. 6019, "the Duke of Norfolk is made chief of the Council, Suffolk acting in his absence, and at the head of all Mlle A. It is not known yet who will have the seal. I expect the priests will never have it again; and that in this parliament they will have terrible alarms. I expect Dr Stephen [Gardiner] will have a good deal to do with the management of affairs, especially if he will cast off his cloth...". Cf. Chapuys's laudatory comment on More's appointment, no. 6026. Wolsey surrendered the seal to Norfolk on 17 Oct., Henry gave it to More on 25 Oct. and More took the oath in Westminster Hall on Oct. 26.

<sup>2</sup> 25 March 1530: for all this paragraph cf. P. Friedmann, *Anne Boleyn*, 1, p. 99.

Norfolk, Suffolk, Boleyn, Fitzwilliam<sup>1</sup> and More<sup>2</sup> were all pensioners of France.

<sup>1</sup> Treasurer of the household, and chancellor of the duchy of Lancaster: for the pensions, see *Bibliothèque Nationale*, Paris, MSS. français vol. 2997, fol. 54, referred to by P. Friedmann, *Anne Boleyn*, I, p. 99.

<sup>2</sup> According to Erasmus, Wolsey himself declared that More was the only man in England equal to such a burden as the chancellorship (*Harpsfield*, notes, p. 323, quoting from the 1538 edition of Erasmus's letters). Harpsfield (p. 51) and Rastell (p. 222) say that More was unwilling to take the office: in his speech of deprecation he said that "considering how wise and honourable a Prelate had lately before taken so great a fall, he had thereof no cause to rejoice". More was not quite the first layman to hold the great seal; in the fourteenth century Rob. Parving had been chancellor nearly two years, and Rob. Thorpe fifteen months, in the fifteenth century there were Michael de la Pole, T. Beaufort, and Rd. Neville earl of Salisbury, J. Fortescue (A. F. Pollard, *Wolsey*, p. 65, n. 2). The sentence in the text is not meant to suggest that More was anticlerical, nor to deny that he was (A. F. Pollard, *Wolsey*, p. 256, n. 2) "imperialist rather than French in his sympathies".

## CHAPTER IX

### SUPREMACY AND ADMINISTRATION

The parliament which began on 3 November 1529, the fourth of the reign and only the second in seventeen years, met in circumstances not apt to produce an assembly favourable to the fallen minister. The duke of Norfolk could return ten burgesses in Sussex and Surrey alone,<sup>1</sup> and others elsewhere: he was also given the management of the elections for the counties of Nottingham, Derby, Bedford, Buckingham, and Hampshire.<sup>2</sup> The sort of people in England who made or became members of parliament were just the sort likely to resent clerical politicians and foreign jurisdiction, and to covet offices and lands that clerics had held.<sup>3</sup> Well might Catharine

be frightened at this meeting of the English Estates . . . that something may be brewed there against her . . . the King, her husband, . . . she says, has played his cards so well that he is likely to get a majority of votes in his favour, and may perhaps be tempted to obtain by this means what he has not yet been able to get in any other way. But I am inclined to believe there is no fear of that, the affection of the English for Your Majesty and for the Queen being so great.

So, on 21 September 1529, wrote Chapuys<sup>4</sup> to the emperor: but a few lines later he almost contradicted himself: "I firmly believe that if they had nothing to fear but the Pope's excommunication and malediction, there are innumerable people in this country who would follow the Duke [of Suffolk]'s advice, and make of the King and ordinary prelates

<sup>1</sup> *L. and P.* x, no. 816, referred to by A. F. Pollard, *Henry VIII*, p. 253.

<sup>2</sup> *L. and P.* iv, no. 5993, referred to by P. Friedmann, *Anne Boleyn*, i, p. 100.

<sup>3</sup> Remember, too, that many of the nobility and gentry were hopelessly in debt to the king.

<sup>4</sup> Despatch referred to by H. A. L. Fisher, *Political History*, p. 292: printed by P. de Gayangos (1879), *Sp. Cal.* vol. iv, pt. 1, no. 160, p. 235. At the same time the queen found that Dr Stokesley was being sent to France for no other purpose than to induce the University of Paris to write on behalf of the king. On December 9 (*ibid.* no. 228) Chapuys reported the likelihood of the matrimonial cause being discussed in parliament "in which I am told the majority of the members has been bribed and gained over in favour of the king".

as many Popes . . . principally on account of the property which they covet and wish to seize": and on December 13 he was writing, "Nearly all the people here hate the priests".<sup>1</sup> Half a dozen or more men likely to come to the rescue of Wolsey, if such a course should seem at all safe, were, indeed, returned:<sup>2</sup> but the most important of them, Thomas Cromwell, was already in treaty with Norfolk "to know the King's pleasure how you shall order yourself in the Parliament House",<sup>3</sup> and though all of them might be willing to do what they could for Wolsey so long as it was quite safe, none of them was very likely to risk any step which was not.

There has been, and still is, great dispute about this parliament, whether it is respectable as parliaments go or is to be despised as a packed herd of the timid and avaricious. Hall<sup>4</sup> described "the most part of the commons" as the "king's servants". Richard Hiliard, also a contemporary,<sup>5</sup> wrote of the great care taken that only those should be present who would favour the king's business, and how the king's familiars and men of the Lutheran sect were recommended by royal

<sup>1</sup> *Sp. Cal.* IV (1), no. 232: but did *here* mean in *England* or at *court*?

<sup>2</sup> Brewer, II, p. 390: the men who hastened to trample on the fallen Wolsey did not find it a service which Henry altogether relished, and he sent word by Norfolk to the faithful that they had "purchased . . . of all noble men much honesty", and that he would see they were not the losers (Cavendish, p. 155). It is difficult for a king to be a gentleman and certainly Henry was infinitely more the one than the other, but he had impulses of generosity which formed one of the reasons why he was so well served: cf. e.g. More's letter (*L. and P.* III, no. 3346) as from the king to Wolsey (20 Sept. 1523)—by no means displeased that Wolsey has changed his opinion (and now advises raising the siege of Boulogne) "as his highness esteemeth nothing in counsel more perilous than one to persever in the maintenance of his advice because he hath once given it", and cf. the occasion when the king was nearly killed by the duke of Suffolk, who at a joust by mistake tilted at him before he was properly armed, "but the king said that none was to blame but himself" (Hall, ed. C. Whibley, I, p. 319). For Henry's intellectual honesty, cf. Cranmer's account, probably in 1537, of how when he wanted to know what was in a book, he would get two persons of opposite opinions to read it and give accounts of it, Hastings Robinson, *Original Letters relating to the English Reformation*, p. 15.

<sup>3</sup> *L. and P.* IV, App. no. 238, p. 3180, referred to by A. F. Pollard, *Henry VIII*, p. 254.

<sup>4</sup> II, p. 169: cf. below, p. 138.

<sup>5</sup> "Who wrote before the Marian reaction", says R. W. Chambers, quoting him in his notes to Harpsfield's *Life of More*, p. 350, from *Analecta Bollandiana*, XII, p. 272.

letters,<sup>1</sup> "*quibus vel honestissima ratione contradicere summum nefas habebatur*". Chapuys was "told the majority of the members has been bribed and gained over in favour of the King".<sup>2</sup> One at least of the Pilgrims of 1536 thought "that these parliaments was of none authority nor virtue, for if these should be truly named, they should be called counsilles of the King's appointment and not parliaments".<sup>3</sup>

William Rastell,<sup>4</sup> who was twenty-one at the time, though no doubt he did not write till long after, said that "The King summoned a Parliament, and chose for knights and burgesses not only heretics, but also such as he and his counsel were persuaded to malign the clergy and their wealth, and namely divers of his own counsellors and household servants and their servants". Thomas More at his trial, though systematically abstaining from recrimination, did permit himself one jeer—"And for your one parliament, *God knows what manner of one*, I have all the general councils for the last thousand years".

All this looks like packing: yet if the word is to imply a general use of force or money, or an effect of slavishness, it cannot be maintained. Hall is the strongest witness, for all the rest were of the opposition: but even Hall was here writing about that part of this parliament's action which he most disliked, and clearly he exaggerates. Did "king's servants" come the nearer in connotation to "capitalists' hirelings" or to "Mr Baldwin's followers"? It is difficult to keep in a twentieth-century head the notion that the king could properly have a policy and lead a movement, and that no one else could. Chapuys and Hiliard and Rastell did not like this particular party and movement: and the

<sup>1</sup> Henry wrote with his own hand to support a candidate at Colchester, H. A. L. Fisher, *Political History*, p. 291.

<sup>2</sup> *Sp. Cal.* IV (1), p. 361, 9 Dec. 1529.

<sup>3</sup> *L. and P.* XI, no 1244: cf. no. 1182, articles of the Conference at Pontefract, Nov. 1536, "unknown that such persons as were elected to the said parliament were named in the King's letters", burgess M.P.s should be residents of their boroughs, "The old custom was that none of the King's servants should be of the Commons House; yet most of that house were the King's servants. If a knight or burgess died during parliament his room should continue void to the end of the same".

<sup>4</sup> More's nephew, afterwards a judge: for him see A. W. Reed, *Early Tudor Drama* (1926), pp. 73-93; for the fragments from which my quotation is taken, see *Harpsfield*, p. 222.

scorn for this particular parliament was at least partly for the sort of people in it—heretics, spoliators; as some twentieth-century minds might despise a house of commons with too few aitches and too many cloth caps and too much trade-union backing, and yet not be prepared to prove that polling-booths had been held in force or ballot-papers miscounted. For the Pilgrims it was a life-and-death matter to undo this parliament, and certainly their history was not good, and Chapuys himself was writing, before the month was out of his letter about universal bribery, that “the King has particularly tried to feel the pulse of this present Parliament, and see whether there was making its members declare in his favour, but he has not found one foolish enough to bring forward the motion [for getting rid of Catharine] and for that reason the plan has been abandoned”.<sup>1</sup> In general, it is fair to dismiss *packing* as an inappropriate word, and to say that on this occasion there was something, and something unprecedented, which the king wanted from parliament: therefore special pains were taken to ensure that royal influence direct or indirect should prevail in all constituencies where it could be made decisive: for various reasons, this was in a majority of cases effective enough to produce burgesses as anti-clerical and as anti-Roman<sup>2</sup> as the king desired, but there is no evidence that any great force was necessary for this result, nor was the 1529 house of commons simply subservient to any royal purpose.<sup>3</sup>

One reason was the dominance of the gentry in counties and the

<sup>1</sup> *Sp. Cal.* iv (1), 1529–30, p. 387, 31 Dec. 1529.

<sup>2</sup> Cf. Roper, p. xxii, for More's prayer, before ever the divorce was broached, “that some of us, as high as we seem to sit upon the mountains, treading heretics under our feet like ants, live not the day that we gladly would wish to be at a league and composition with them, to let them have their churches quietly to themselves, so that they would be content to let us have ours quietly to ourselves”. And cf. Peter Wentworth, 8 Feb. 1576, D'Ewes, p. 239 (quoted W. Notestein, *Winning of the Initiative by the House of Commons* (Brit. Acad. 1924), p. 9)—“I have heard of old Parliament men that the banishment of the Pope and Popery, and the restoring of true Religion had their beginning from this House and not from the Bishops”: the evidence is not bad, in a direct tradition though a generation late, but it is evidence of the formal place of initiative rather than of its popularity.

<sup>3</sup> E.g. the Bill of Uses, a government measure, was twice thrown out: cf. p. 172 below. And cf. *Sp. Cal.* iv, pt. 2, p. 383, Chapuys' report (14 Feb. 1532) that in this connection several members used in public very strong language against king, privy council, and government.

oligarchical tendency in boroughs: another was the looseness of election arrangements: some one looking for a seat could bargain with some one elected to take his place:<sup>1</sup> it should not be difficult to find a borough willing to accept a candidate who promised not to accept wages,<sup>2</sup> and it is significant that Thomas Cromwell, who was to be the most important member of this parliament, got his seat quite at the last moment and probably in this way:<sup>3</sup> it was a method likely to be used specially by those to whom a seat was part of a career, and it was a method made all the easier by the fashion now setting in of frequent and prolonged sessions, so that the 1529-36 parliament cost the smaller boroughs, if they paid the legal wages, more than a benevolence or perhaps even a subsidy,<sup>4</sup> and it is not surprising that at subsequent elections some boroughs did not return any one at all. It was possible in one case<sup>5</sup> for an aspirant who had not presented himself for election to get to the house of commons early, to get himself admitted, and to keep out the elected candidate: or so the borough alleged years after, and what is most significant is that neither borough nor elected complained sooner, that it was only the claim for wages that made the matter worth quarrelling about. The length of parliament would also strengthen the tendency for "divers and many weighty matters" to come at the end of sessions and for members to go home "long time before the end",<sup>6</sup> and it would not be those most interested who would wish to depart or those most interested on the right side whom the Speaker would allow to go.<sup>7</sup> These things do not amount to corruption or intimidation, hardly to anything that can be charged against the government, but they do help to explain why parliament was manageable.

It is very likely that the repeated prorogations of this parliament were due to Henry's desire to keep Wolsey's ruin from being irretrievable and to his doubts whether this could be done when parliament was in session: it was in fact prorogued, by instalments but in effect continuously, from 5 December 1529 till January 1531.<sup>8</sup>

<sup>1</sup> Cf. A. F. Pollard in *Inst. Hist. Res. Bul.* VIII, pp. 157 ff.

<sup>2</sup> *Ibid.* x, p. 20.

<sup>3</sup> *Ibid.* x, p. 24.

<sup>4</sup> *Ibid.* VIII, p. 157.

<sup>5</sup> *Ibid.* VIII, p. 161.

<sup>6</sup> *Ibid.* VIII, p. 162.

<sup>7</sup> Cf. *L. and P.* v, no. 120, Chapuys 1 March 1531.

<sup>8</sup> Cf. Busch, p. 98.

This was the most important parliament in English history, and did more than any other to make parliament the controller of political practice and absolute in political theory: it was not, then, a mere coincidence that it was opened in a speech which began by urging the necessity of legislation and by explaining, in the most respectful way, that the community makes the sovereign. The king, said Sir Thomas More, lord chancellor,

considered how divers laws before this time were made now by long continuance and mutation of things very insufficient and unperfect, and also by the frail condition of man divers new enormities were sprung among the people, for the which no law was yet made to reform the same, which was the very cause why at that time the king had summoned his high court of parliament: and he resembled the king to a shepherd . . . for if the king be compared to his riches he is but a rich man, if a prince be compared to his honour, he is but an honourable man: but compare him to the multitude of his people and the number of his flock, then he is a ruler, a governor of might and puissance, so that his people maketh him a prince, as of the multitude of sheep cometh the name of a shepherd.<sup>1</sup>

More went on to explain what a black sheep Wolsey had been, how craftily, scabbedly, and untruly he had juggled with the king, and how lightly he had been punished. Thomas Audley was chosen speaker, whom, the king said, he had well known "since he was in his service, to be both wise and discreet", and the nether house "began to commune of their griefs wherewith the spirituality had before time grievously oppressed them".<sup>2</sup>

The king himself by now had grievances enough against the spiritual authorities: already for a month before parliament met there were posted up at the gates of various Flemish towns (in consequence of there being no easy access to his kingdom) the evocation of his suit and the citation of himself to Rome. By December 1529, with Charles V's presence in Bologna, the pope had shaken off all hesitation about standing firm against Henry's clamour, and the embassy of Wiltshire,

<sup>1</sup> Hall, II, p. 164: cf. *Sp. Cal.* vol. IV, pt. I, no. 211, pp. 323 ff., e.g. "The Chancellor then went on to say that of all matters of State those concerning ecclesiastics needed most reform".

<sup>2</sup> Hall, II, p. 165.



Anne Boleyn's father, at the beginning of 1530, to talk over the emperor, was quite hopeless from the start. On March 21 was issued the first of a series of papal inhibitions against arguing for Henry's case.<sup>1</sup>

To return to November 1529, and the first session of the long reformation parliament: the commons proceeded at once to appoint all the lawyers in their house "to draw one bill of the probates of Testaments, another for Mortuaries, and the third for non-residence, pluralities, and taking of Farms by spiritual men".<sup>2</sup> And when the Probate Bill came to the house of lords

the Archbishop of Canterbury in especial and all other bishops in general both frowned and grunted, . . . insomuch as Dr John Fisher, bishop of Rochester, said openly in the parliament chamber these words: "my lords, you see daily what bills come here from the common house and all is to the destruction of the church; for God's sake see what a realm the kingdom of Bohemia was, and when the church went down, then fell the glory of the kingdom; now with the commons is nothing but *down with the church*, and all this, meseemeth, is for lack of faith only".

So the commons sent their Speaker and thirty others of their chiefs to complain to the king of this slander that they lacked faith, "so that . . . what acts or laws soever they made or established should be taken

<sup>1</sup> Busch, pp. 80, 82, 83, referring to *L. and P.* IV, nos. 6111, 6279, 6396, 6549, 6615.

<sup>2</sup> Hall, II, p. 167, Hall himself would be among the lawyers so appointed. Hall added "These things before this time might in no way be touched, nor yet talked of by no man, except he would be made an heretic, or lose all that he had; for the bishops were chancellors, and had all the rule about the king, so that no man durst once presume to attempt anything contrary to their profit or commodity". Cf. above, p. 133, n. 1, the new lay chancellor on the necessity of ecclesiastical reform. A. F. Pollard, *Wolsey*, p. 194 (referring to W. Stubbs, *Seventeen Lectures*, p. 348 and F. W. Maitland, *Canon Law*, pp. 42, 59), writes "the exclusive jurisdiction of the ecclesiastical courts in matters of probate was a peculiar English custom confirmed by the legislation of Edward I, but grounded neither on the *jus commune* of the church nor on positive legislation by the pope". Cf. G. G. Coulton, *Medieval Studies*, pamphlet 8, pp. 4, 6, in some cases the lord of the manor claimed the best beast and the priest the second best, in some places the best went to the priest; two years later St Germain spoke of the Mortuary Act as a total abolition of the old mortuary system: p. 9 most wills by word of mouth before the parson, written wills invalid till proved in church courts, 1000 marks probate on a single will. Cf. More on the excessive number of the clergy, and their secular employments in his *Dialogue* against Tyndale (1528), bk. III, c. 12, where the character making the complaint is answered that "if the laws of the Church which Luther and Tyndale would have all broken, were all well observed and kept, this gear should not be thus".

as laws made by paynims and heathen people, and not worthy to be kept": whereupon the king summoned the obnoxious bishops, and Fisher explained that he had only meant that the Bohemians, not the English, lacked faith, "which blind excuse pleased the commons nothing at all".<sup>1</sup>

This incident has usually been explained as an illustration of the anxiety of the burgesses lest it be supposed that their anti-clerical prejudices involved any suspicion of heresy: no doubt there was something of the sort; but it is possible that there was also something much more specific and much more important, not indeed that the house of commons had explicitly formulated that legislative omnicompetence, parliamentary sovereignty, for ripening which centuries were still needed, but that its more perspicacious members were already aware what was the most formidable obstacle which a hostile jurisprudence might place athwart the path they had entered on, that is, the *ultra vires* argument, the allegation "This law which you purport to make is no law because it is in a sphere where you have no competence, or because you are so disqualified that against Christian consciences you can have no competence at all". That was the real case, good or bad, against the whole English reformation, and it is not impossible that acute minds, even if they were very far from apprehending and would have been as far from approving, the scope of the reformation, may yet have discerned in the bishop of Rochester's remarks the germ of a thesis which would have been fatal to all of it and which must, therefore, be repudiated by whoever wanted any of it. The Tudor use of premunire was part of the same development, and so was Wolsey's contrast<sup>2</sup> of King's Bench not with the Law of God but with conscience, and so now was the clause in the Pluralities Act<sup>3</sup> invalidating any papal licences or dispensations for non-residence and penalising such as should solicit them. This bill was passed only with difficulty,

for the lords spiritual would in no wise consent. Wherefore the king, perceiving the grudge of his commons, caused eight lords and eight

<sup>1</sup> Hall, II, p. 167.

<sup>2</sup> Cf. above, p. 125.

<sup>3</sup> Cl. XVI of 21 H. VIII c. 13, the act against clerical farmers, non-residence, and pluralities.

of his commons to meet in the star chamber<sup>1</sup>. . . , and there was sore debating of the cause, insomuch that the temporal lords of the upper house which were there took part with the commons against the spiritual lords, and by force of reason caused them to assent to the bill with a little qualifying. . . .<sup>2</sup>

They had already consented to bills regulating sanctuary, probate, and mortuaries;<sup>3</sup> one of the arguments used in favour of these bills is remarkable, for when the clergy pleaded prescription in defence of their perquisites, "answer was made by a gentleman of Gray's Inn, the usage hath ever been of thieves to rob on Shooter's Hill, *ergo* is it lawful?"<sup>4</sup> This was a sort of debating not easily reconcilable with the habits of the English common law or of that sempiternal law of which the English was but a particular exemplification. Three other bills had also been passed which though not directly part of the ecclesiastical history yet had this beside the chronological connection with it, that they also illustrate the width of parliamentary competence and its usefulness to the king: I mean the bill of general pardon, the bill releasing the king's debts, and the bill confirming a star-chamber decree against the employment of aliens.<sup>5</sup>

The reign had entered the period when revenue was a controlling consideration. The wool subsidy had fallen sharply: household expenses were up, the king's taste for building was wildly expensive, costs of defence and armament were mounting, foreign policy had already once been dominated by finance when the French war was broken off in 1525. It was a time when a minister who knew where to look for revenue and how to manage the house of commons was likely to outstrip Norfolk and More and Suffolk and Gardiner. Soon after Wolsey's death Cromwell seems to have promised Henry to make him

<sup>1</sup> Cf. p. 57 above.

<sup>2</sup> Hall, II, p. 170.

<sup>3</sup> 21 H. VIII cc. 2, 5, 6.

<sup>4</sup> Hall, II, p. 169. Precedent was not neglected on the other side: e.g. *L. and P.* IV, p. 2692, along with 29 "bills of Parliament" for this session is "A bill put up to the King in his Parliament by his Commons in A.D. 1410, concerning the temporal possessions being in the hands of the Church"; and cf. *L. and P. Addenda* I (1), nos. 672, 673, extracts from Canon Law and the Fathers and other authorities.

<sup>5</sup> 21 H. VIII cc. 1, 24, and 16.

the richest king England ever had:<sup>1</sup> in the spring of 1531 he was already an important financial minister. At the same time foreign observers noted that Henry's liberality was turning to avarice. If he were to face the possibility of having a defensive war on his hands, finance mattered more than ever, for that is a sort of war that cannot be broken off. And for the fixing and recognising of that possibility Cromwell was largely responsible, if we believe Pole's very credible account, that on Wolsey's death Cromwell advised the king that renunciation of Roman authority would remove all his matrimonial difficulties. He was the man with the clear head, with the head for finance, and Henry knew this well enough pretty soon after Wolsey's fall, even though it was not till 1533 that Cromwell was clearly the principal minister.<sup>2</sup> Especially about law and its obligatory force was Cromwell's head clear, making clearer distinctions than Wolsey with his conscience or More with his Christendom. It was at the time of the divorce that, according to Reginald Pole<sup>3</sup>, Cromwell told Henry the prince's will was law, and to have two heads in one realm monstrous (and the Church's claims to govern absurd in view of Christ's temptation on the pinnacle of the temple<sup>4</sup>).

To return to finance in 1529: the preamble of the Repudiation Bill<sup>5</sup> recited what great things Henry had done for his people and for Christendom, and especially how by his high prudence, provision and assistance a right dangerous and damnable schism had been repressed, and how when almost all Christian countries had been infested with

<sup>1</sup> So again, on 19 Dec. 1534, Chapuys reported his "boasts that he will make his master more wealthy than all the other princes of Christendom", *L. and P.* VII, no. 1554.

<sup>2</sup> Cf. Dietz, pp. 104-7; Merriman, I, pp. 17, 76, 91, and esp. references to Pole, *Apologia ad Carolum*, v, ch. 29 (*Epistolarum*, pars. I, Brescia, 1744); *L. and P.* v, no. 277; *Ven. Cal.* IV, p. 694. Cf. p. 340 below.

<sup>3</sup> *Epistolarum*, pp. 119-21: Reginald Pole said Cromwell added that a councillor's business was to see that others did not break the law, nor reprehend the king if he did, and that he was a pupil of Machiavelli. Reginald Pole illustrated Thomas Cromwell's respect for statute by two instances where he kept men in prison till a new law was established striking their offences with death! pp. 124, 137, 151, 129.

<sup>4</sup> Cf. Tyndale, *Obedience of a Christian Man* (1st pubd. Oct. 1528), in *Works*, I, p. 222, Christ disowning temporal power (with references to St Matthew): "If the head be under the temporal power, how can then the members be excepted?"

<sup>5</sup> 21 H. VIII c. 24.

cruel wars and dissensions, men slain, women (even nuns) ravished, churches polluted and turned to profane use, relics of the holy saints irreverently treated, how all this time the king's subjects were by his politic means preserved and maintained: and accordingly "this present parliament do for themselves and all the whole body of the realm whom they do represent. . . give and grant. . . all and every sum and sums of money which to them and every of them is ought or might be due by reason of any money or any other thing to his grace at any time heretofore advanced or paid by way of prest or loan". The Catholic piety of the preamble is remarkable, more still the lofty pretension of the operative part. The great loan of 1525<sup>1</sup> had been raised, not without compulsion, on the faith of a Christian king and his minister who was a prince of the Church: the king's promises to pay had been dealt in since, left by will, exchanged for valuable consideration: what could be more fully protected by Law, law of God, law of nature? what was justice if not *suum cuique* and how could property have clearer titles than this? if statute could destroy such values as these, a third party deprive honest creditors of their dues, then had not law mastered Law? what was there statute could not do?

But of course these theoretical considerations about the Repudiation Bill were not the dominant factors in the minds of most of the men immediately concerned. To those of them who were engaged in official careers it seemed a means at once of gratifying the king and of promoting the financial service of government, nor is it likely that they allowed themselves to risk being the losers: to the other members of the commons no doubt it was a bitter pill, and the fact that they swallowed it is evidence of the subservience of this parliament. Yet it is not proof of an all-enduring servility. This bill was sore argued in the common house, but "the most part of the commons were the king's servants, and the other were so laboured to by other, that the bill was assented to".<sup>2</sup> It is not certain that Hall's *most* means *most numerous*, nor that if it does it is accurate: in any case he clearly assumes that a general agreement was necessary, and he goes on to indicate how it was got: "The King, like a good and discreet prince, seeing that his

<sup>1</sup> Cf. p. 67 above.

<sup>2</sup> Hall, II, p. 169.

commons in the parliament house had released the loan, intending somewhat to requite the same, granted to them a general pardon of all offences, certain great offences and debts only except:<sup>1</sup> also he aided them for the redress of their grieves against the spirituality, and caused two new bills to be made indifferently", the probate and mortuary bills, and after them accepted the Pluralities Bill.

So the bondholders' party in the commons were not simply bullied: they at least thought they were getting something for what they gave, and, besides, it may be doubted whether "when this release of the loan was known to the commons of the realm, Lord! so they grudged, and spake ill of the whole parliament": members of parliament were of just the class that would suffer, and so was Hall, but it is very unlikely that the great mass of men with small possessions or none very much minded *the king's pillage of the rich, which postponed the necessity of taxing* them: Robin Hood has always been a popular character, and the chief of the obligations which bound the thriving classes to the Tudor regime was the fear of disorder, of disturbances from underneath. For them the main use of the crown was to keep the lower orders duly subordinate: when the crown tried to do more than they thought fit for the unpropertied they could generally frustrate its efforts,<sup>2</sup> but so long as its efforts were inoffensive and even useful they must expect to be applied to for remuneration. No one likes paying for his government or pays more than he must, but every one knows that it has to be paid for: most Tudor revolts were in protest against taxation: now the last thing the burgesses wanted was revolt, and so they submitted to what they disliked because it was an alternative to taxation.

Part of the consideration they got for their complaisance was certainly very light coin: the first statute of this parliament was a general pardon to all persons and corporations<sup>3</sup> but its generality was subject to very wide exceptions: not only for treason and the more serious felonies, concealment of riots, unlawful enclosures, throwing down of public crosses, but also for premunire: that was a gap through which,

<sup>1</sup> Cf. bottom of this page.

<sup>2</sup> E.g. over enclosure.

<sup>3</sup> Cf. top of this page: *first* statute on the roll, not first bill to be discussed.

Henry was to show, he could drive whomever he chose, but the commons were not yet aware what a gap it was.

The other business of this parliament, besides some commercial legislation of transitory importance and an "Act that the president<sup>1</sup> of the King's Council shall be associate with the Chancellor and Treasurer of England and the Keeper of the King's Privy Seal", was the certification of Wolsey's disgrace and the promotion of the king's matrimonial cause.<sup>2</sup> From Henry's point of view the second, from that of the triumphant courtiers the first, was the essential.

But before they are dealt with the statute about the president of the council demands a paragraph: probably it is to be taken as a sign, like the multiplication of clerks of the council,<sup>3</sup> of the tendency, still vague and fluctuating, to institutionalise conciliar arrangements: the office was not new:<sup>4</sup> probably the need for doing something about it was due to the fall of Wolsey and to Henry's feeling that if his counselling was no longer to be analysed by a single minister it had better be embanked and directed by some official regularisation: but very soon the office dwindled into unimportance, partly because of the rise of Cromwell and more because the council with the king was necessarily the council that mattered most and the king necessarily the president and more than the president of it: nor was the Presidency ever to become important, except in the very exceptional circumstances of Henry's successor.

<sup>1</sup> Chapuys reported a little later (*L. and P.* vol. iv, pt. III, no. 6199, 6 Feb. 1530) that Brian Tuke told him "the King was resolved to manage his own affairs, and had nominated several councillors, that he might not be without assistance when Norfolk and the Chancellor are detained here. Suffolk has been appointed president of the Council for this purpose, with the same authority as the Chancellor, etc."

<sup>2</sup> It was the general opinion that the first was the object of the parliament: cf. *L. and P.* nos. 5983, 6018, 6026: *Sp. Cal.* vol. iv, pt. I, no. 194, p. 304; and for Catharine's fears of the second, *Sp. Cal.* vol. iv, pt. I, nos. 160 (p. 235), 168 (p. 257), 182 (p. 274).

<sup>3</sup> Cf. *E.H.R.* vol. xxxvii, art. A. F. Pollard, esp. pp. 351, 353, 359, and *L. and P.* v, no. 1617.

<sup>4</sup> D. M. Gladish, *The Tudor Privy Council*, p. 14, says there is no trace of it before 1496: I. S. Leadam, *Select Cases in Star Chamber*, II, p. xii, says that according to Hudson the president frequently presided t.r. H. VII though unmentioned in 3 H. VII c. 1, and suggests that the act of 1529 gave statutory sanction to a prevailing use.

For Henry, it was perhaps convenient to implicate his parliament in the prosecution of Wolsey,<sup>1</sup> for the court party it was quite necessary to put it as far as possible out of the king's power to recall Wolsey to his favour. Act of attainder would be best of all, most definitive. It may be argued, indeed, that for just this reason Henry was from the first determined that parliament should not be allowed to do anything definite against Wolsey. Chapuys reported to the emperor, on 6 February 1530, that "from the beginning [the king] determined that [Wolsey's] case should not be brought before parliament, for had it been decided against him, he could not in face of such a decision have pardoned him".<sup>2</sup> Brought before parliament it was nevertheless. On 1 Dec. 1529 articles were drawn up and "put to the king"<sup>3</sup> over the signatures of seventeen lords and councillors. The first count recited<sup>4</sup> how

your Grace and Noble Progenitors . . . being Kings of England have been so free that they have had in all the world none other Sovereign but immediate subject to Almighty God in all things touching the regaly of your Crown of England, and the same pre-eminence prerogative jurisdiction lawful and peaceable possession your Grace and your noble Progenitors have had . . . two hundred years and more: whereby your Grace may prescribe against the Pope's Holiness that he should not nor ought to send or make any Legate to execute any authority Legatine contrary to your Grace's prerogative . . . Now the Lord Cardinal of York . . . hath of his high orgallous and insatiable mind . . . to the great imblemishment and hurt of your said regal jurisdiction . . . hath obtained authority Legatine,

and thereby despoiled monastic houses and "usurped upon all your Ordinaries within your realm much part of their jurisdiction": this was the article that really mattered: some others—"writing to am-

<sup>1</sup> Who so far had been left with his archbishopric, the spiritualities of Winchester, and £6374 in lieu of his forfeited goods, A. F. Pollard, *Wolsey*, p. 253. Chapuys thought Henry did not want Wolsey's case determined by parliament "as, if it had been decided against him the king could not have pardoned him", *L. and P.* vol. IV, pt. III, no. 6199, 6 Feb. 1530.

<sup>2</sup> *Sp. Cal.* vol. IV, pt. I, no. 257, p. 448, referred to by Wm. Busch, "Der Sturz des Kardinals Wolsey" in *Historisches Taschenbuch*, 6te Folge, 9ter Jahrgang.

<sup>3</sup> Hall, II, p. 170.

<sup>4</sup> Coke *Inst.* IV, p. 89; cf. *Henry VII*, pp. 177-81; above, pp. 82, 100-7, 140.



bassadors abroad in his own name and without the king's knowledge . . . arrogant behaviour in the council chamber . . . appropriating by his legatine authority the goods of spiritual men . . . examining matters in Chancery after judgement had been given on them by the common law"—may be taken as indicating the motives of his destroyers: one—violating his promise to the king, when he asked his assent to be legate *de latere*, not to do anything in prejudice of the king or bishops—may reflect some consideration for the royal conscience: and one or two indicate the desirability of conciliating public opinion, which loved melodrama and dreaded heresy:

that he, when he knew himself to have the foul and contagious disease of the great pox broken out upon him in divers places of his body, came daily to your Grace rowning in your ear and blowing upon your most noble Grace with his most perilous and infective breath . . . stamping the Cardinal's hat under the King's arms on the coin of groats<sup>1</sup> made at York . . . prohibiting two bishops from visiting the University of Cambridge to prevent the spread of Lutheran heresies.<sup>2</sup>

Of these articles there is no trace in parliamentary records,<sup>3</sup> for the statute 21 H. VIII c. 25—that no one “shall sustain any prejudice by means of the attainder of the Lord Cardinal, by means that the said Cardinal was seised in their lands to divers uses”—was drafted with reference to the attainder in the king's bench: nevertheless Hall<sup>4</sup> reports that “the book of articles which the lords had put to the king against the cardinall . . . was brought down to the commons”. Herbert<sup>5</sup> prints a copy of them from “the original . . . found among our records”, and Cavendish<sup>6</sup> testifies how “against [that] bill Master Cromwell inveighed so discreetly, with such witty persuasions and deep reasons,

<sup>1</sup> The York privilege was limited to half-groats and half-pennies: “the Wolsey coinage brings to an end the ecclesiastical issues”, G. C. Brooke, *English Coins*, pp. 175–7.

<sup>2</sup> Apparently no one was burnt while Wolsey controlled ecclesiastical jurisdiction: A. F. Pollard, *Wolsey*, p. 208, and for his indifferentism cf. the following seven pages.

<sup>3</sup> *L. and P.* iv, pt. III, p. 2712 n.

<sup>4</sup> II, p. 170.

<sup>5</sup> P. 265: and (with slight differences) Coke, *Fourth Part of the Institutes* (ed. 1644), pp. 89 ff.: summarised *L. and P.* iv, no. 6075 and *Wolsey*, p. 259.

<sup>6</sup> P. 153.

that the same bill could take there no effect". Cromwell should be given full credit, but it is the less necessary to give him any too much since he got full credit and full profit at the time, and it may be believed that his efforts would have been neither so persistent nor so successful if the king had not been reluctant to destroy utterly his fallen minister: the parliamentary proceedings against Wolsey came to nothing, and his enemies had to be content with his banishment to the north.<sup>1</sup>

The proceedings came to nothing as regards legal effect, and it is possible that Cromwell's participation happened only in Cavendish's too fertile memory.<sup>2</sup> The important point is that in the breaking of Wolsey, it was king's bench that mattered and not parliament. Here was a conviction that required nothing like legislation, no parliamentary certification of crime, and likewise did not require any involving of the estates in a royal persecution. Lords and bishops were hotter on the trail than the king, and the commons had scarcely more tenderness for the quarry: there was no need to drag the body of the *regnum* into participation with its head. Nor did Wolsey's deeds need any parliamentary definition or interpretation to make them crimes, in spite of a common impression that he was more than any one else a victim of Henry's arbitrariness, and in spite of the fact that he was more than any one else an exponent of another jurisdiction, a representative of the *sacerdotium*. Whatever powers popes had purported to grant him,<sup>3</sup> English law penalised the exercise of them beyond very narrow bounds and without special royal license. Whatever license he supposed himself

<sup>1</sup> Parliament was prorogued throughout 1530 (cf. p. 103 above). In February he resigned the bishopric of Winchester and the abbey of St Albans, and received £6000, a royal pardon, and restoration to the archbishopric of York: in March he was ordered north, but even then not without "comfortable words" from the king—"tell him that he shall not lack, and bid him be of good cheer". He set out in Passion Week, reaching York about Michaelmas, after a long sojourn at Southwell on the way. Cf. Brewer, II, pp. 406 ff., and Cavendish, pp. 169 ff., and observe especially in this latter how, when Henry made grants to courtiers out of the Winchester revenues and the revenues of Wolsey's colleges, Cromwell exploited these grants for his own advancement without impairing his "true, faithful, and diligent service to Wolsey".

<sup>2</sup> A. F. Pollard, *Wolsey*, p. 262.

<sup>3</sup> Cf. T. D. Ingram, *England and Rome*, pp. 147, 151.

to receive from the king, he had certainly done much the king would not, and much the king could not, have licensed.<sup>1</sup> The king's bench had no legal difficulty in finding the pope's legate and the English church's master<sup>2</sup> guilty under the statutes of provisors and premunire. No member of the *sacerdotium*, nor its head, made any move to stay the penalties. There was no difficulty about making them effective. That they were now made more effective than ever before, against a loftier hierarch than ever before, made them more terrible for the future. Clerics could hardly be blamed (though they were to be penalised) for having acquiesced in Wolsey's jurisdiction, but they can hardly avoid blame for their indiscriminating applause of the attacks upon it. By the end of Henry's reign it was to be a true boast that "in England there is but one king, and the king hath but one law to rule all his subjects by":<sup>3</sup> that was largely because the only other law that mattered had been so fully personified in one man, had been so lawlessly used by him, and in him so utterly broken,<sup>4</sup> to the delight of his colleagues even more than of the laity.

Legally, indeed, Wolsey may almost be said to be self-condemned, for he had himself threatened with premunire<sup>5</sup> the use of bulls *contra legem terrae*, and one of the specific offences of provision with which he was charged had been committed against the law of the church as

<sup>1</sup> Cf. *Wolsey*, p. 247, esp. references to *Y.B.* 2 R. III Mich., fol. 12 (king may license importation of bulls where they touch him but not where they touch a party), and 1 H. VII Hil. fol. 10b (king may pardon an offence committed but not to be committed, and even so pardon does not cover offence against a party, only against the king). Cf. *Harpfield*, p. 168, "And yet at length when they pressed him, he [More] was content to open and disclose the said causes [of his refusing the oath, pp. 240, 269 below] in writing upon the king's gracious license, or upon his commandment. But it was answered that if the king would give license, it would not serve against the statute". Cf. also *Wolsey*, p. 248, for evidence that premunire and provisors had never been forgotten and that Wolsey had no right to forget them. And cf. Muller, *Letters of Stephen Gardiner*, pp. 370, 377, 390, 399, for the views of a jurist not wedded to the common law.

<sup>2</sup> Much more so than any one since Anselm, cf. above, p. 101.

<sup>3</sup> *S. P. For.* 1547-53, p. 137. Cf. *Wolsey* (A. F. Pollard), p. 347, "the jurisdiction in equity, which Wolsey and his predecessors had concentrated in chancery, reverted to the council and overflowed into the common law-courts... his fall frustrated the most likely opportunity for the reception of Roman law in England". See also W. S. Holdsworth, v, pp. 25, 81-2, 106, 153, 171-3, 190-4.

<sup>4</sup> Cf. *L. and P.* IV, no. 6575.

<sup>5</sup> Cf. p. 101 above.

well,<sup>1</sup> for at the time there was no pope, and consequently no force in the bull, nor could Wolsey's life-legateship supply that force, for the rule that no pope could bind his successor was one of several ways in which papal *plenitudo potestatis*<sup>2</sup> anticipated parliamentary sovereignty.

The parliamentary articles against Wolsey do not seem to have been ever intended to have statutory force but only parliamentary solemnity and publicity. There were forty-four of them, drawn up (1 Dec. 1529) by seventeen signatories "constrained by necessity of fidelity and conscience" under the sting of grievous "offences, misusing, altering and subverting the order of your Grace's laws". The first signatory was More, then came twelve lords,<sup>3</sup> two members of the Household and of the house of commons, and two judges. They ended with a petition to the king "to set such order and direction upon the said Lord Cardinal as may be to the terrible example of other . . . and that he be so provided for that he never have any power, jurisdiction or authority hereafter".<sup>4</sup>

<sup>1</sup> *Wolsey*, p. 252. Note also the difficulty (in view of p. 134, n. 2) of drawing authority from Rome for that legatine interference with testamentary jurisdiction which especially infuriated bishops and laity.

<sup>2</sup> Cf. *Henry VII*, pp. 153 n. 3, 164 n. 2, 166; above, p. 110, 144; below, p. 211.

<sup>3</sup> Of whom six had been witnesses in the legatine divorce court, Herbert (edn. 1649), p. 242.

<sup>4</sup> For the popular-protestant contemporary case against Wolsey, cf. Roy (writing early in 1528):

- P. 49:                   "First, as I said, there is a Cardinal  
Which is the Ruler principal  
Through the realm in every part."  
"Have they not in England a king?" . . .
- P. 50:                   "The Cardinal vexeth them then?"  
"Alas, since England first began  
Was never such a tyrant there.  
By his pride and false treachery,  
Whoredom and bawdy lechery. . . ."
- P. 51:                   "He standeth in the pope's room,  
Having of his bulls a great sum. . . ."
- P. 57, after a description of Wolsey's luxuries, etc.:  
"And who did for these shoes pay?"  
"Truly many a rich abbey,  
To be eased of his visitation. . . ."
- P. 67:                   "Of this world they have the chief dominion  
With stately pre-eminence temporal.  
They presume to be had in opinion  
Of the people as lords imperial. . . ."

They were presented to the king and then, with Wolsey's confession, read to the commons.<sup>1</sup> The cardinal's ruin had been as fully and solemnly certified as his enemies could manage, but he was not yet utterly destroyed, nor the royal favour incapacitated.<sup>2</sup>

The respite was not for long. Through the treachery of one of his household, whom he had really employed for communicating with the French court in the hope of using its intercessions with Henry, an accusation was framed against Wolsey of traitorous correspondence with France<sup>3</sup> and with Rome.<sup>4</sup> This was the charge of all charges to infuriate Henry, and orders were sent for the cardinal's arrest. On 4 November 1529 the earl of Northumberland came to Cawood<sup>5</sup> and

trembling said, with a very faint and soft voice. . . "My lord, I arrest you of high treason" . . . "Where is your commission", quoth my lord, "let me see it". "Nay, Sir, that you may not", quoth the earl. "Well then", quoth my lord, "I will not obey your arrest" . . . Even as they

P. 105:

"... English Lucifer  
Otherwise called the Cardinal.  
In all the land there is no wight,  
Neither lord baron nor knight  
To whom he hath any hatred,  
But either by sour speech or sweet  
Of their confessors he will wete  
How they have themselves behaved. . . ."

After recommending the distribution of monastic wealth among poor folk, p. 113:

"I am sure thou hast heard spoken  
What monasteries he hath broken,  
Without their founders' consents. . . ."

And *passim*.

<sup>1</sup> A. F. Pollard, *Wolsey*, p. 261.

<sup>2</sup> Cf. Cavendish's story of the rings the king sent him.

<sup>3</sup> Cf. Brewer, II, pp. 430 ff. In 1525, for making the peace with France, he had accepted 100,000 crowns from the Queen-Regent, and in Oct. 1529 pleaded to her that it would be "immediate death" to him if it became known (*Wolsey*, pp. 148-9, 257): the taking of presents from foreign sovereigns was common form but Wolsey did it, like everything else, immoderately. Cf. also *Wolsey*, ch. VII, esp. p. 295, and *L. and P.* VIII, no. 429, p. 166, Cromwell telling Chapuys he had refused a French pension and intended to pass an act at the first parliament that no Englishman of the King's Council should take such things.

<sup>4</sup> *Wolsey*, p. 239, evidence of Wolsey's private intelligence with Campeggio and the pope.

<sup>5</sup> The archbishop's castle near York.

were debating this matter . . . there came in Master Walshe, and then said the cardinal, "Well, there is no more to do. I trow, gentleman, ye be one of the king's privy chamber; your name, I suppose, is Walshe; I am content to yield unto you, but not to my Lord of Northumberland, without I see his commission. And also you are a sufficient commissioner yourself in that behalf, inasmuch as ye be one of the king's privy chamber; for the worst person there is sufficient warrant to arrest the greatest peer of this realm, by the king's only commandment, without any commission".<sup>1</sup>

Thus did Wolsey in his ending, as in his beginning and in all his continuance, illustrate that he was the servant of the king, of the royal person who reigned and ruled: nor was it mere chance that his very surrender was an enhancement of that personal authority, for therein lay his only hope, or his only hope but one, if he dared to have that one when a few days later, on his death-bed, he said to his escort, "if I had served God as diligently as I have done the king, he would not have given me over in my grey hairs":<sup>2</sup> and with those words he began to fail, and soon after he was dead: and they found upon him, "next his body, a shirt of hair, besides his other shirt, which was of very fine linen holland cloth; this shirt of hair was unknown to all his servants . . ., except to his chaplain, which was his ghostly father".<sup>3</sup>

It was the end of one manner of doing great business: the newer methods were already being sketched, though it was not clear yet whether as substitutes for the old or as merely another threat to drive the old into obsequious motion. The idea of getting outside opinions in order to influence that of the pope was not new, and the special value of scholars and universities for this purpose had been recognised before, as when in 1500 the French flouted Alexander VI's bull, demanding a tithe for a crusade, and on being excommunicated took the opinion of the university of Paris that the excommunication was

<sup>1</sup> Cf. *Henry VII*, pp. 51, 143, 160.

<sup>2</sup> G. Cavendish, *Wolsey*, p. 244.

<sup>3</sup> G. Cavendish, *Wolsey*, p. 248. And so near did he come to More; and not so very far after all, nor in all ways so much below Gregory VII at Spalato and Becket at Canterbury.

invalid and proceeded upon that opinion.<sup>1</sup> On a question of canon law above all, which was, according to Henry, the hinge of his case, it might be supposed that the universities, organisations of learning and (what was more) papal organisations of learning, were the best referees. In August 1529 Cranmer made the suggestion, and Henry at once caught at it:<sup>2</sup> in October Stokesley was sent to France and Croke to Italy:<sup>3</sup> throughout 1530 emissaries were scouring Europe for academic testimonials that to dispense with the prohibition against marrying a deceased brother's wife was beyond the competence of papal authority. This was asking for a good deal more than Henry had demanded when first scruple came between him and Catharine: then it was no more than a declaration of deficiencies in one particular dispensation that he

<sup>1</sup> *Cambridge Modern History*, 1, p. 663.

<sup>2</sup> Though the pope went on hoping for long yet that the curia might be able to provide something that would satisfy Henry: 27 March 1530, the bishop of Tarbes reported to Francis I that Clement had "told me more than three times in secret, he would be glad if the marriage [with Anne] was already made, either by a dispensation of the English legate or otherwise, provided it was not by his authority, or in diminution of his power as to dispensation, and limitation of divine law", *L. and P.* vol. IV, pt. III, no. 6290. 18 Sept. 1530, Gregory Casale reported to Henry that "the Pope secretly proposed to me the following condition;—that your Majesty might be allowed to have two wives. I told him I could not undertake to make any such proposition, because I did not know whether it would satisfy your Majesty's conscience. I made this answer because I know that the Imperialists have this in view, and are urging it; but why I know not. Though I told the Pope I would not speak of it, I deemed it necessary to bring it to your Majesty's notice. . .", *L. and P.* vol. IV, pt. III, no. 6627. About the same time Ghinucci reported that he had reminded Clement that "a general Council . . . would be greatly to the prejudice of his authority, for during the last two hundred years no Pope has continued Pope after a general Council. . . the Pope said he could with less scandal give the King a dispensation for two wives than grant what the writer asked. . .", but Ghinucci did "not feel sure that he would grant such a dispensation, even if the king would be content with it. . .", *L. and P.* vol. IV, pt. III, no. 261. The Imperialists may have had in mind the dispensation (of which the Council of Castile reminded Charles V in 1522) granted about 1440 to Henry IV of Castile "permitting him to contract another marriage, on condition that he should return to his first wife if, within a fixed time, he should not have issue by his second Queen. . .", *Sp. Cal.* II, no. 379, p. 396: references from A. F. Pollard, *Henry VIII*, pp. 281, 207. 23 Aug. 1529, du Bellay reported that "Wolsey and the King appeared to desire very much that I should go over to France to get the opinions of the learned men there about the divorce. . . It is intended to hold a Parliament here this winter, and then act by their own absolute power, in default of justice being administered by the Pope in this divorce. . .", *L. and P.* vol. IV, pt. III, no. 5862.

<sup>3</sup> Cf. A. F. Pollard, *Henry VIII*, pp. 282 ff., and for all this paragraph.

required, now it was a general sentence of invalidity against a whole class of dispensations:<sup>1</sup> the papalists equally were being drawn by the turn of the controversy to generalise their contention and to maintain that, whether the marriage with Arthur had been a mere form or not, whether or not it had been against the divine law, yet in any case the pope could dispense for the widow's marriage with the brother, his authority, "even in the case of nearest relations", being unlimited.<sup>2</sup>

To the general question on which he was now appealing from the pope to the expert opinion of Christendom Henry did not at once and as a matter of course get favourable answers even from his own universities of Oxford and Cambridge.<sup>3</sup> Threats and promises were used there and wherever else they could be used; they were used, of course, on the other side as well, and the Spanish universities were as unanimous for Catharine as the English and French<sup>4</sup> for Henry: many Italian scholars were against the pope, and some Italian universities, notably Padua, though silence was enjoined by the Venetian signory, on whose territory it lay, and Bologna,<sup>5</sup> though situated within the papal states.<sup>6</sup> There was something to be said against the papal claim, and there was a respectable body of expert witnesses prepared to say it. It is fair to look ahead four years, to the time when Cardinal du Bellay, in the

<sup>1</sup> One effect of which, e.g., would have been to bastardise John III then reigning over Portugal: cf. J. Gairdner, *Lollardy and the Reformation*, I, p. 294.

<sup>2</sup> A. F. Pollard, *Henry VIII*, p. 284, referring to *L. and P.* v, no. 468, but the document there is of rather nondescript nature and not the best possible authority.

<sup>3</sup> *L. and P.* iv, no. 6218, request to Cambridge for opinion under seal whether it was "prohibited by divine and natural law to marry the wife of a brother deceased without children"; no. 6247, Gardiner describing the difficulties of getting a favourable answer; no. 6259, the opinion given, but with the insertion of a proviso about the first marriage being consummated; no. 6325, the king "scarce contented with Mr Secretary and Mr Provost that it was not also determined, *An papa possit dispensare* . . . He then said he would have it determined after Easter . . .": references from Busch, p. 83.

<sup>4</sup> Paris, Orleans, Bourges, Angiers, Toulouse.

<sup>5</sup> Also Ferrara and Pavia.

<sup>6</sup> *L. and P.* iv, App. no. 260, also pt. III, nos. 6332, 6448, 6491, 6632, 6636, 6738 (references Busch, pp. 83, 100, and A. F. Pollard, *Henry VIII*, p. 283). The Lutherans were against Henry, because they thought his argument involved an excessively high view of matrimony: Croke found their opposition a nuisance even in Italy (above, no. 6491).



middle of March 1534, did not "see how they could give sentence against the King in the principal, for no one will be bold enough to maintain in Consistory that the dispensation ever was valid".<sup>1</sup>

Henry had not yet made up his mind to be finished with the curia, simply to deny its competence and to get the decision he wanted elsewhere, but he was already trying out the arguments which would be requisite to such a policy. In December 1529 he told Chapuys<sup>2</sup> that had the pope and cardinals

observed to the letter the precepts of the Gospel, and attended to the traditional sayings and exemplary conduct of the old fathers of the Church—several of whom the King mentioned in the course of his argumentation—they would have led a very different life, and not have scandalised by their acts and manners the whole of Christendom. In so far as this matter Luther had only told truth and preached with common applause. Had he limited himself to inveighing against the vices, abuses, and errors of the Clergy, instead of attacking the Sacraments of the Church and other Divine institutions, everyone would have followed him and written in his favour. . . . As to him and the reformation of the Church in his dominions, he hoped to be able, little by little, to introduce reforms and put an end to scandal. He had already begun to do so, and had no doubt but that ere long he should accomplish his object by imposing law and establishing rules to that effect. He considered that Your Majesty, as the greatest prince in Christendom, was bound to do the same. . . . We thanked the King for his good counsel, and assured him that such was Your Majesty's confidence in him that in any matter, even more important than the present, you would not fail to follow his advice.

In the course of the same conversation Henry "maintained that the only power which ecclesiastics had over laymen was the absolution from sin. . . .". A few days later<sup>3</sup> he told Catharine that "as soon as

<sup>1</sup> *L. and P.* VII, App. no. 12: du Bellay then still had hopes—"it would be well that the king of England should be a little more moderate especially in things which do not help his cause and which do not seem (under correction) worthy of such a noble magnanimous heart as he hath shown hitherto. . . . it will be a great misfortune if the king of England will not listen to reason; seeing that if his cause came here before the office, and all the world were against him, even if he did not gain it at least he could not lose it".

<sup>2</sup> *Sp. Cal.* IV, no. 224 (to Charles V, 6 Dec. 1529), n. 349.

<sup>3</sup> Same reference, p. 351.

he had obtained those opinions [from Paris], and others well founded upon right and canonic law, he would not fail to have them duly forwarded to Rome, and should not the Pope, in conformity with the above opinions so expressed, declare their marriage null and void, then in that case he would denounce the Pope as a heretic, and marry whom he pleased". Catharine replied with spirit and had rather the better of the dispute, though perhaps she would have done better not to. A day or two later Henry told the ambassadors "that he had issued orders for the reform of the Clergy in his kingdom, whose claws he has already clipped to a considerable extent, taking away from them several taxes imposed of their own exclusive authority on his subjects. He was (he said) about to undertake the annates, and prevent ecclesiastics from holding more than one benefice at a time. . .": and before 1529 was out he "distinctly told the Queen and others that in this affair, should the Pope send a refusal, he should not heed it; it was enough for him to obtain within his own kingdom such an opinion as might set his conscience at rest; and he prized and valued the church of Canterbury in England as much as the people across the sea did the Roman".<sup>1</sup>

When Henry had endeavoured to put pressure on the pope it had more than once been hinted to him in reply that his power to dispose of all English resources might be doubted, so unpopular were his matrimonial plans. It was true that they were unpopular, and also that general opposition, or even any very widespread resolve not to be used, would have made Henry's further action impossible: but there was not enough unpopularity for that, and fifteen-thirty, in spite of its parliamentary deficiency, was used by the king to demonstrate the acquiescence of whoever mattered most in England as well as the approval of whoever knew most outside.

On 12 June 1530 there met the greater part of the magnates of the kingdom, ecclesiastical and temporal: ". . . though only those well known

<sup>1</sup> *Sp. Cal.* IV, no. 241, p. 386: on 6 Dec. 1529 Henry had written to Benet and Carne, on mission to Rome, that he was sure they would rather be taken for good Englishmen than for Englishmen papistate. See, also, a few pages later, in *Sp. Cal.*, Catharine's story to Chapuys about Henry's conspiracy with Francis to raise Germany and set up another emperor.

to be on the King's side were summoned to the meeting, still they were unable at the time to come to a resolution, and therefore the meeting was adjourned until to-morrow, Corpus Christi Day",<sup>1</sup> the 16th: it had been suggested that Henry might marry Anne at once, "but one of the King's chief favourites, fearing lest he should adhere to the proposal . . . , threw himself down on his knees and implored the King to take into consideration the slight symptoms of disaffection appearing in many parts of the kingdom . . . , that he should at least delay it until winter . . . ". Nevertheless, after the adjourned meeting Chapuys had to report<sup>2</sup> that Henry had got his way.

Great trouble has been taken to bring this about, for each person has been dealt with separately. No doubt it was feared that if the application were made to the whole body conjointly it would have met with either refusal or delay. When the King had thus obtained a certain number of the said seals and signatures, presuming that others would do as these had done, he . . . sent commissioners to go from house to house and obtain separately from each nobleman, whether ecclesiastic or layman, the required signatures.<sup>3</sup> . . . There will doubtless be but few who will venture to oppose the King's will in this matter.

Chapuys thought it would be a good thing

that His Holiness should enact that the prelates, noblemen, and burghesses<sup>4</sup> should give their votes by ballot, as the Venetians do at the election of their Doge . . . I am assured that were the voting by ballot, the greater number of those who have now signed and sealed in favour of the King would be on the Queen's side.

Anyway, the king got his signatories—two archbishops, two dukes, two marquesses, thirteen earls, four bishops, twenty-seven barons, twenty-two abbots, and eleven "knights and doctors in parliament": these last were not all members of parliament in the modern sense, one of them, for instance, being Stephen Gardiner, whose parliamentary attendance, on the upper house, was as secretary of state.

<sup>1</sup> *Sp. Cal.* iv, no. 354, Chapuys to the emperor.

<sup>2</sup> *Ibid.* no. 366.

<sup>3</sup> Wolsey's seal was procured in this way: cf. *L. and P.* vol. iv, pt. III, no. 6460.

<sup>4</sup> *Conseillers des villes*. In the same letter Chapuys reported how Brian Tuke was alienated by the irregular payment of the emperor's pension, and how he had said he had not discussed the divorce because "he was a member of the King's Privy Council, and I myself one of the Queen's Council here".

The letter they signed<sup>1</sup> explained how they were fixed and fastened together with the "Royal Majesty, our head, and so the soul of us all"; how well he had deserved of the Holy See, and how strong was expert opinion on his side: how the kingdom was threatened with a sea of troubles if so virtuous a prince, so well-titled a king, were not enabled to leave it to a legitimate male heir of his body: and how if the Holy Father ignored their plea, "we shall certainly interpret it, that our case is remitted to ourselves, so that we may seek remedies elsewhere. . .". If Henry was not yet impatient enough to break with the pope nor quite confident of power to get all he wanted from parliament, yet he was able to use a preponderance of his subjects in order to threaten the pope with the fate that falls upon the unloved whenever they cease to be indispensable.

In his dispatch of 15 June 1530<sup>2</sup> Chapuys reported that Catharine had exhorted the king to "respect God and his conscience, and no longer ignore the brief which had been executed in Flanders. The King. . . said that the brief was of very little consequence, and that even if it were he should not heed it very much, because the Pope was compelled to act as the Emperor wished". In the course of the year there were repeated papal attempts to prevent all but Roman handling of the matrimonial cause:<sup>3</sup> by September 12 Henry was convinced that it was not enough to ignore them, and so,

perceiving how much the subjects of this his realm have been vexed, unquieted and troubled by authorities and jurisdictions legatine. . . and for that his grace, by the advice of his council and authority of his said Parliament, intendeth to take some order and direction for the remedying of the premisses as shall be agreeable with God's laws. . . His Highness therefore straightly chargeth and commandeth that no manner of person. . . attempt to purchase from the court of Rome, or elsewhere, nor use, put in execution, divulge, or publish anything heretofore within this year passed, purchased or to be purchased hereafter, con-

<sup>1</sup> N. Pocock, *Records of the Reformation*, I, p. 429.

<sup>2</sup> Cf. p. 152, n. 1.

<sup>3</sup> *L. and P.* vol. IV, pt. III, nos. 6279, 21 March 1530, bull forbidding all ecclesiastical judges, doctors, etc. to speak or write against the validity of the Spanish marriage; 6396, 21 May 1530, papal mandate forbidding ecclesiastical judges to meddle with it in any way; 6549, 4 Aug. 1530, extending both prohibitions to all persons.

taining matter prejudicial to the high authority, jurisdiction, and prerogative royal of this his said realm....<sup>1</sup>

A fortnight later Clement wrote his reply to the letter of the magnates, surprised that they should think he had been anything less than indulgent to Henry, warning them, as his dearest sons, that their notion of seeking remedy elsewhere stood neither with prudence nor with religion, and unable to believe that the king could have meant them to write like that.<sup>2</sup>

Even yet it was not quite impossible for the courts of England and Rome to communicate with each other: the gap between them was getting wider and deeper, but they could still shout across it: as it became more difficult to shout across, and more unlikely that the shouting would elicit the desired responses, Henry more and more prepared himself for a total disconnection and for equipping his side of the chasm with everything he thought necessary. Public opinion was not neglected: "A book (wrote Chapuys)<sup>3</sup> is being printed, against the meeting of Parliament, in favour of the King... They are likely to publish other documents, as they have more influence than any book". In the middle of October<sup>4</sup> Chapuys reported how the king of England ("perceiving that the Pope will not accede to his wishes") had "called together the clergy and lawyers of this country to ascertain, whether in virtue of the privileges possessed by this kingdom, Parliament could and would enact that notwithstanding the Pope's prohibition, this cause of the divorce be decided by the archbishop of Canterbury. To this question the said clergy and lawyers, after having studied and discussed the affair, have deliberately answered that it could not be done": and so the king prorogued parliament till February 1531, "in the hope, as may be supposed, that in the meanwhile he may hit upon some means of bringing over to his opinion the said lawyers as well as some members of his Parliament, with whose power he is continually threatening the Pope"; and at the same time "the king before publicly announcing his intention to prorogue Parliament still further, wishing to make a

<sup>1</sup> Pocock, II, p. 49.

<sup>2</sup> Pocock, II, p. 437.

<sup>3</sup> *L. and P.* IV, no. 6738, 27 Nov. 1530.

<sup>4</sup> *Sp. Cal.* vol. IV, pt. 1, no. 460, p. 758, 15 Oct. 1530, referred to by Busch, p. 74.

virtue of necessity, and somewhat conciliate the Pope, sent for the Nuncio" and told him

that he much regretted having to declare his intentions respecting the divorce, and still more his determination to carry the same into execution, which he certainly would if things continued as they were. He then began to complain that the Pope would not, in observance of the privileges belonging to England, order the hearing and decision of his cause in his country. . . . After greatly reproaching the Pope for his conduct in this affair, the King proceeded to say that if His Holiness would not show him in future more consideration than at present, he<sup>1</sup> should take up his pen and let the world know that the Pope had no other authority than what Moses had, which was nothing but over the declaration and interpretation of scripture, and that all the rest is nothing but usurpation and tyranny, and that if he is constrained to do this, he will do an irreparable damage to the apostolic see, more than all the others who have written before, for with his knowledge and rank, kings and princes and the rest will side with him.

Then he came to the virtue he was making of necessity, and

said further that the great concourse of people present had come solely and exclusively to request him to use the stick to these priests,<sup>2</sup> who were indeed so hated throughout his kingdom, both by nobles and people, that but for this protection they would be utterly destroyed, and yet that in spite of this urgent request he had determined to prorogue Parliament till the month of February next, to see whether the Pope would in the meantime adopt a different course of action towards him.

Chapuy went on<sup>3</sup> to explain the difficulties in the way of dealing with the case by the appointment of new judges and his own opinion that the only way to bring Henry to an amicable compromise was by proceeding with the case: then he reported<sup>4</sup> that the king had told the nuncio of the duke of Saxony's departure from Charles's court, of the demands made by the Lutherans, and of the failure of the diet of Augsburg, and had "added<sup>5</sup> that he would soon put another kind of

<sup>1</sup> The rest of this sentence is in my translation: Gayangos translated *que nestoit sinon sur la declaration et interpretation de l'escripture* into "which was only grounded on the declaration and interpretation of the *Holy Scripture*".

<sup>2</sup> *Pour donner la bastonnade a ces prestres*: Gayangos translated "for the punishment of the clergy".

<sup>3</sup> P. 760.

<sup>4</sup> P. 761.

<sup>5</sup> My translation.

order in his kingdom touching the prohibition and punishment of such errors than had been made in Germany. This boast is more pardonable than it was a week ago, for within that time he has imprisoned five or six merchants of this town as Lutherans".<sup>1</sup>

By the end of the year 1530 the breach was a good deal wider. Henry wrote<sup>2</sup> to Clement complaining in a very hectoring manner of his failure to have the case settled by agreed judges in England and of his efforts to restrain the expression of opinion favourable to Henry: "if, then, the Pope desire his own rights to be respected, let him not interfere with those of Henry. Let him not receive appeals to Rome in the King's cause, but remit them into England. . . . Let him not suppose that either the King or his nobles will allow the fixed laws of his kingdom to be set aside. . . . he himself abhors contention. But he will not brook denial".

In the Secret Consistory<sup>3</sup> on December 23, in which this letter was discussed, "nothing was concluded. . . and no votes were taken, the Pope declaring that this business ought to be ripely discussed":<sup>4</sup> but the same consistory decided that consent ought to be granted to a whole series of petitions from Catharine—that the archbishop of Canterbury should be forbidden to take cognisance of the suit, that all inhibitions directed to English prelates should be confirmed, that Henry should be forbidden to cohabit or marry with any one, and such a marriage be incapable of validity, and that Anne and all other women should be forbidden to marry Henry.

The king's letter of 6 December 1530 had exhibited all the characteristics of an ultimatum<sup>5</sup> except the fixing of a date for the commencement of

<sup>1</sup> In the same dispatch Chapuys reported his suspicion that Henry had sent to Rome for "an old Jew, who says he can prove incontrovertibly that the marriage with the queen is unlawful. . . should the Jew be a man of such learning and parts as to inspire confidence. . . prevail on the Pope to stop his coming, at least until his arguments have been heard, so that the Bishop of Rochester may be prepared to refute them, a task the Bishop desires above all things. . . . It is said the Chancellor is still in danger of being dismissed, and this solely because he hesitated to sign with the others the king's letter to the pope. . . ."

<sup>2</sup> On Dec. 6: *L. and P.* vol. iv, pt. III, no. 6759, p. 3055.

<sup>3</sup> Of cardinals.

<sup>4</sup> *L. and P.* vol. iv, pt. III, no. 6772.

<sup>5</sup> The government was equally explicit with the emperor. Norfolk told Chapuys that "the Popes in former times had tried to usurp authority, and that the people would not suffer it—still less would they do so now; that the King had a right of

hostilities: the resolutions of the consistory,<sup>1</sup> though they carefully excluded any express rejection of its terms, amounted in effect to a decision that they were beyond the bounds of practicable politics. If the result was not war at once, or at least its ecclesiastical equivalent, schism, a sufficient reason was that in this case one party had within its bounds a great company that might be expected to be champions of the other party. Henry must get the English church in hand before he launched defiance against the church of Rome.

In the summer of 1530 indictments of *premunire* had been entered against a number of bishops and other prelates,<sup>2</sup> and in December the attorney-general filed in king's bench an information against the whole body of the clergy:<sup>3</sup> the particular charge was that by their acquiescence in Wolsey's legatine proceedings they had broken the statutes of *premunire* and provisors. The charge was true enough, and when convocation met<sup>4</sup> on 21 January 1531, it had nothing more urgent to do than to redeem the goods and persons of its constituency from the mercy of the king. There was no thought of collective martyrdom, and when the papal nuncio tried to stiffen the backs of the clergy, "they were all utterly astonished and scandalized, and, without allowing him to open his mouth, they begged him to leave them in peace, for they had not the King's leave to speak with him".<sup>5</sup> At first they flattered themselves that they would get off for £40,000; they soon learnt that that was not enough, and were constrained to grant a subsidy of £100,000 payable in five yearly instalments. But even so much submissiveness and so much money did not suffice: on 7 February 1531

empire in his kingdom, and recognised no superior; that there had been an Englishman who had conquered Rome, to wit, Brennus; that Constantine reigned here, and the mother of Constantine was English, etc." Chapuys pointed out that it was easier to choose a son-in-law than a son and that if Henry's own title came through his mother there was no reason why it should not be transmitted through his daughter, *L. and P.* v, no. 45, 13 Jan. 1531.

<sup>1</sup> In accordance with which Clement, on 5 Jan. 1531, wrote to Henry forbidding his marrying any other woman (Pocock, II, p. 104), and on Jan. 7, politely declining the demands of Henry's ultimatum.

<sup>2</sup> *L. and P.* vol. IV, pt. III, no. 6488.

<sup>3</sup> H. A. L. Fisher, *Political History*, p. 307.

<sup>4</sup> The convocation of Canterbury: that of York followed a similar course a little later.

<sup>5</sup> *L. and P.* v, no. 62, 23 Jan. 1531.



convocation was notified that its grant could not be accepted without the insertion of an acknowledgment of Henry as "Protector and Supreme Head of the English Church and Clergy": this was too much, but after a good deal of persuasion the church and clergy of England did acknowledge the king to be their "especial Protector, single and supreme lord, and, as far as the law of Christ allows, even Supreme Head".<sup>1</sup>

<sup>1</sup> Gairdner, *The English Church in the Sixteenth Century*, p. 109: for the Latin see Wilkins, *Concilia*, III, p. 742. For a discussion how much Warham was responsible for the formula, and for Cranmer's statement "that it was Wolsey gave the supremacy to Henry VIII", cf. W. F. Hook, *Lives of the Archbishops*, VI, p. 397.

CHAPTER X  
SUPREMACY, AND PARLIAMENT,  
AND THE ARAGON MARRIAGE

Catharine supposed "that now the King's lady is as much delighted as if she had gained paradise":<sup>1</sup> the clergy, no doubt, were correspondingly dejected, and perhaps they hoped to regain in parliament what they had lost:<sup>2</sup> if so they were not very wise, and they were to be disappointed. This session passed a couple of dozen statutes, most of them unremarkable enough, as to regulate the draining of Plumstead Marsh and to forbid the keeping of tanneries by butchers, but a few worth remembering, about sanctuary, about poisoning, and about premunire.

Those about sanctuary<sup>3</sup> were a small part of the general policy whereby the secular authority of its own right declared and even modified rules for cases which had an ecclesiastical aspect: the second of them was recommended to the upper house by the king in person: so was the act<sup>4</sup> which, occasioned by an incident in the bishop of Rochester's household, provided that "poisoning be adjudged and deemed as high treason" and the poisoner "boiled to death without having any advantage of his clergy". This act was very characteristic of the times, not merely as illustrating that the abhorrence of crimes is in direct proportion to their unfamiliarity, but also as an example of the vast reach of statutory competence. There was no hesitation about employing statute to punish by a retrospective application, with a death of unprecedented atrocity, a crime committed beforehand: and besides, this expedient of denouncing and punishing as high treason whatever was especially disagreeable to the government, an expedient several times repeated in the course of the reign, was in effect a long step towards the sovereignty of the legislature, and a step all the longer for being unnoticed. Treason was the worst of all crimes against the law

<sup>1</sup> Report of Chapuys to Charles V, *L. and P.* v, no. 105, p. 47.

<sup>2</sup> Ditto, *L. and P.* v, no. 124.

<sup>3</sup> 22 H. VIII cc. 2, 14.

<sup>4</sup> 22 H. VIII c. 9.

of God and of nature, the crime of Satan and of Judas: statute before had not ventured to do more than indicate a technique for recognising it and for disposing of the forfeitures which it involved: now it made into high treason a crime which was dreadful indeed, but not essentially<sup>1</sup> from any connection or analogy with treachery to a natural lord. God and nature made high treason the worst crime of which humanity was capable: Henry and parliament made poisoning high treason, and later they made it high treason to be slow in following the vagaries of the royal conscience about matrimonial law: this was making law with a vengeance.

But the main parliamentary business of 1531<sup>2</sup> was the pardon for the premunire: for the clergy there was that much gain, that they got their pardon in a statutory form,<sup>3</sup> "of his mere motion, benignity and liberality by authority of this his parliament... in consideration... of one hundred thousand pounds...". Then the laity began to fear that they, who no more than the clergy had opposed Wolsey's legatine authority, might be implicated, and

insisted that the King should give them a similar exemption.<sup>4</sup>... As the King would not listen to them for some days there was great murmuring among them in the Chamber of the Commons, where it was publicly said in the presence of some of the Privy Council that the King had burdened and oppressed his kingdom with more imposts and exactions than any three or four of his predecessors, and he ought to consider that the strength of the king lay in the affections of his people. And many instances were alleged of the inconveniences which had happened to princes through the ill-treatment of their subjects...

Such considerations, indeed, were never long absent from Henry's mind, and he was, for instance, during these critical years very solicitous

<sup>1</sup> Though of course the likeliest cases of poisoning are of masters by their cooks.

<sup>2</sup> On Mar. 1 Chapuys wrote: "The Parliament continues, but has done nothing, as I am told, and it is supposed that the King keeps it sitting for some mysterious purpose. Everybody is tired of it, and every day some one asks leave of absence, which is never refused to those who take the Queen's part, so that it is expected that the divorce will be treated of, and that the King is only waiting for favourable news for France...". Chapuys went on to say that yesterday Henry had suggested the subjects of sanctuary and poisoning to the house of lords: *L. and P.* v, no. 120.

<sup>3</sup> 22 H. VIII c. 15.

<sup>4</sup> *L. and P.* v, no. 171, Chapuys to Charles V, 2 April 1531.

that pamphlets and other means of publicity should be well exploited on his side.<sup>1</sup> So now these arguments had due weight, and "the King granted the exemption, which was published in Parliament on Wednesday last [29 March 1531], without any reservation". Without reservation, but not without a very plain assertion of the respective situations of the parties:

remembering<sup>2</sup> the manifold great offences transgressions and contempts perpetrated committed and done by divers and many of his said temporal and lay subjects against his highness's crown regalie and jurisdiction royal contrary to the statutes of provisions provisors and premunire; . . . His Royal Majesty, moved with most tender pity love and compassion, and not minding to use and extend all and singular his penal laws upon his subjects, but as consideration shall move his grace so in part or in whole to remit and mitigate the rigour of the same, of his mere motion and of his high benignity special grace pity and liberality hath given and granted, and by authority of this present parliament giveth and granteth, to all and singular his temporal and lay subjects and temporal bodies politic and corporated and to every of them, his most gracious general and free pardon. . . .

This grant of pardon was very typical of Henry's management<sup>3</sup> of the commons, its high-handedness and its considerateness, its medieval and personal quality combined with its stimulation of a more modern parliamentarism: for when the speaker and a convenient number of his fellows were sent to petition the royal goodness and clemency,

the king wisely answered that he was their prince and sovereign lord, and that they ought not to restrain him of his liberty, nor to compel him to show his mercy, for it was at his pleasure to use the extremity of his laws or mitigate and pardon the same, wherefore since they denied to assent to the pardon of the spiritual persons—which pardon (he said) he might give, without their assent, by his great seal—he would be well advised before he pardoned them, because he would not be noted to be compelled to do it: with this answer the speaker and the commons departed very sorrowful and pensive, and some light persons said that

<sup>1</sup> Cf., e.g., H. A. L. Fisher, p. 310; N. Pocock, *Records of the Reformation*, I, pp. 307, 334, 517, and Hall, II, p. 202.

<sup>2</sup> 22 H. VIII c. 16: my orthography.

<sup>3</sup> And cf. p. 160, n. 2 above.

Thomas Cromwell, which was newly come to the favour of the king, had disclosed the secrets of the commons, which thing caused the king to be so extreme. The king, like a good prince, considered how sorrowful his commons were of the answer that he made them, and thought that they were not quiet, wherefore of his own motion he caused a pardon of the premunire to be drawn, and signed with his hand, and sent it to the commons house by Christopher Hales his attorney; which Bill was soon assented to. Then the commons lovingly thanked the king, and much praised his wit that he had denied it to them when they unworthily demanded it, and had bountifully granted it when he perceived that they sorrowed and lamented.

The comments and adverbs might be less gratulatory from any reporter other than the devoted Hall, but there is no reason to doubt that the facts were as he stated them.

On the day after this "exemption" More, to whose notions of law and right it must have caused some alarm, found himself obliged to come very near to his conscience:<sup>1</sup> Henry, neglecting no means to convince his parliament and people, sent his chancellor, and twelve lords, lay and clerical, to lay his case before the house of commons:<sup>2</sup> "and there the lord chancellor said, you of this worshipful house, I am sure, be not so ignorant but you know well that the king our sovereign lord hath married his brother's wife, for she was both wedded and bedded with his brother prince Arthur, and therefore you may surely say that he hath married his brother's wife, if this marriage be good or no many clerks do doubt..."<sup>3</sup> and so the king, to be satisfied

<sup>1</sup> But not actually to do it violence: when the crash came More wrote (to Cromwell) that Henry "only used in prosecuting the matter those whose consciences were persuaded, while those who thought otherwise he used in other business, being never the less gracious lord to every man, and never willing to put any man in trouble or ruffle for his conscience". *L. and P.* VII, no. 289 (5 March 1534), referred to by A. F. Pollard, *Henry VIII*, p. 293.

<sup>2</sup> Cf. Hall, II, p. 145, how at the coming of Campeggio, "the common people being ignorant of the truth", Henry called to his palace of Bridewell, on 8 Nov. 1528, his nobility, judges, and councillors, with divers other persons, and explained the necessity of an heir, and the invalidity of his marriage.

<sup>3</sup> Hall, II, p. 185. According to Chapuys (*L. and P.* V, no. 171, 22 April 1531) "On Thursday when the memory of this exemption was fresh, the Chancellor set forth by command that there were some who said that the King pursued this divorce out of love for some lady, and not out of any scruple of conscience; and this was not true..."

in his conscience, had sent for opinions to many universities, not only to Cambridge and Oxford (though they would have sufficed) but, for the avoidance of all taint of partiality, to universities in France and Italy as well: then twelve opinions from foreign universities were read, and

there were shown above an hundred books drawn by doctors of strange regions, which all agreed the king's marriage to be unlawful, which were not read, for the day was spent. Then the chancellor said, Now you of this commons house may report in your countries what you have seen and heard, and then all men shall openly perceive that the king hath not attempted this matter of will or pleasure, as some strangers report, but only for the discharge of his conscience and surety of the succession of his realm.<sup>1</sup>

The same thing had been done

first in the assembly of prelates and lords; and when all was read, the bishops of Lincoln and London,<sup>2</sup> seeing that the three principal prelates of the queen's council were not there, and thinking the others would not dare to utter a word, proceeded to dispute in favour of the king. The bishops of St Asaph and of Bath<sup>3</sup> protested that that was not the place to discuss the question. . . Norfolk . . . interrupted, saying that the king had not sent the said documents to discuss the matter, but only for the purpose propounded by the chancellor. Hereupon some one asked the chancellor for his opinion; on which he said that he had many times already declared it to the king; and he said no more.<sup>4</sup>

Here were doubts big with consequence: what was the proper "place to discuss this question"? and if it were in parliament, to whom could the king without misgiving entrust the discussion? to whom if not to More, his chosen companion and the supplanter of Wolsey, nor to Standish, whose career sprang from the championship of the *regnum* against the *sacerdotium*?

With such doubts pending it was the more to be desired that the king and kingdom of England should be above any suspicion of heresy. They had a chancellor who desired nothing more keenly than to

<sup>1</sup> Hall, II, p. 195.

<sup>3</sup> Standish and Clark.

<sup>2</sup> Longland and Stokesley.

<sup>4</sup> *L. and P.* v, no. 171, p. 84.

extirpate religious error, by persuasion at best,<sup>1</sup> but by killing if necessary. In the middle of 1530 the king by proclamation,<sup>2</sup> with the advice of the primates and of a body of academic divines, denounced certain "pestiferous" books,<sup>3</sup> "and if any person hereafter be known to buy or keep any such works, they are to be brought before the King's council". No new book concerning holy scripture was to be printed without license from a bishop: "considering the malignity of the present time, a translation into English would tend to the increase of error... If, in future, the people abandon their present perverse opinions, the King intends that the scripture shall be translated into English by 'great learned and Catholic persons'". About the same time all royal officers and men in authority were required to take oaths to help the bishops in suppressing heresy, and there was a great burning of New Testaments in St Paul's Churchyard.<sup>4</sup> In October 1530 several merchants were imprisoned for Lutheranism,<sup>5</sup> a little later a heretic was burnt, in the next two years half a dozen, and in 1533 two more: moreover, Foxe, the "martyrologist", gives a select list of sixty persons in the diocese of London compelled to abjure between 1528 and 1532.<sup>6</sup> These measures seem to have had a fair success: at least the Venetian ambassador explained to his Senate in November 1531, how the univer-

<sup>1</sup> For which purpose he wrote three pamphlets—*The Dialogue* (1528), *The Supplication of Soul* (1529), and a *Confutation of Tyndale's Answer* (1532), the second only while he was actually chancellor: Gairdner, p. 124. More thought heretics the worst enemies of the realm (Harpsfield, p. 207), and the least deserving of presumption in favour of the accused (*The Dialogue concerning Tyndale*, ed. W. E. Campbell and A. W. Reed, p. 191), and that the pope's authority, being everywhere admitted, authorised inquisitorial methods not otherwise justifiable (*English Works*, II, p. 1453).

<sup>2</sup> *L. and P.* IV, no. 6487, June: and also the king "came into the star chamber the five and twentieth day of May, and there communed with his council and the prelates concerning this cause, and after long debating... commandment (was) given by the king to the bishops that they, calling to them the best learned men of the universities, should cause a new translation to be made... notwithstanding this commandment the bishops did nothing...": this is according to Hall.

<sup>3</sup> Including Tyndale's Bible, and his *Obedience of a Christian Man*.

<sup>4</sup> Cf. Gairdner, *The English Church in the XVIth Century* (1903), p. 106, and see Hall's amusing story (II, p. 160) how Tyndale, through an agent, sold testaments to the bishop of London and used the money for preparing a better edition.

<sup>5</sup> Cf. p. 162 above.

<sup>6</sup> Gairdner, p. 128: the inverted commas are not meant to indicate that Foxe was not a martyrologist.

sities of Cambridge and Oxford had "produced many excellent and illustrious men, and hence it comes that many English speak Latin, and annotate holy writ, on which they are now not a little intent, entertaining opinions totally opposed to the Roman Church; and their number would increase daily, were they not purged with fire and sword—antidotes which the prelates administer frequently".<sup>1</sup>

It has been suggested, both at the time and since,<sup>2</sup> that Henry's government was not altogether sincere in its anti-heretical activities, and even that it was all the time encouraging the heretics or some of them: it does not seem necessary to believe that there was any theological divagation or hesitation, but only that Henry found in the anti-Roman arguments of some heretics (as he had told Chapuys already in 1529 he did in Luther's teaching) some truths that were useful in morals and politics: he might sympathise, for instance, with Tyndale's *Obedience* and with Saint-German's *Spirituality and Temporality*.<sup>3</sup>

Such royal inclinations could be no longer ignored nor unopposed by large classes of Henry's subjects. It was not without great difficulty that the clergy had been brought in Feb. 1531 to recognise him as their "especial protector, single and supreme lord, and as far as the law of Christ allows even supreme head",<sup>4</sup> and they explained carefully that the sort of people against whom they most needed royal protection were Lutherans, invokers of evangelical purity, coveters of church property, persons essentially hostile to all authority, and congratulated themselves that they were defended from such perils by their most invincible king, so that they could see to the cure of the souls committed to him. Tunstall, bishop of Durham,<sup>5</sup> thought that words should be added to make it clear that the king is "after Christ supreme head of his kingdom

<sup>1</sup> *Ven. Cal.* (ed. Rawdon Brown), IV, no. 694, p. 296.

<sup>2</sup> Cf. Gairdner, pp. 106, 125, and *L. and P.* v, no. 593, where Chapuys reported (21 Dec. 1531) that Robt. Barnes had returned from exile "at the king's great solicitation": cf. also A. F. Pollard, *Henry VIII*, p. 273.

<sup>3</sup> *The Obedience of a Christian Man* preached divine right and passive obedience. Saint-German's book, published in or near 1532, recalled Jean Gerson (ch. II), and reprobated the "making of laws by the church, which they had none authority to make" (ch. XII).

<sup>4</sup> Cf. p. 158 above.

<sup>5</sup> Wilkins, *Concilia*, III, p. 745.



and of the Anglican clergy in *earthly and temporal things*", to which<sup>1</sup> Henry replied that it would be "*nimis absurdum*, Us to be called *caput ecclesiae representans corpus Christi mysticum, et ecclesiae quae sine ruga est et macula quam Christus sibi sponsam elegit, illius partem vel oblatum accipere vel arrogare*": he was head of "the Church, that is to say the Clergy of *England*": Tunstall himself had admitted the necessity of obedience to princes, and Henry thought that we

[princes] may not more regard our Law than God[’s], nor punish the breach of our Laws, and leave the transgressor of God’s Laws unreformed: so as all spiritual things by reason whereof may arise bodily trouble and inquietation, be necessarily included in Princes’ Power. . . no man will deny, the ministration of spiritual things to have been by Christ committed to Priests to Preach and minister the Sacraments, . . . but. . . it proveth not that their office being never so excellent, yet their persons, acts and deeds, should not be under the power of their Prince by God assigned, whom they should acknowledge as their Head:

Tunstall’s suggestion of adding "*in temporalibus*" Henry found

superfluous, considering that men being here themselves earthly and temporal, cannot be head and Governor to things eternal, nor yet spiritual, taking that word *spiritual* not as the common speech abuseth it, but as it signifieth indeed: For, *quae spiritu aguntur, nulla lege astringuntur*, as the Scripture saith, *Quae Spiritu Dei aguntur libera sunt*. And if ye take *Spiritualibus* for Spiritual men, that is to say Priests, Clerks, their good acts and deeds worldly, in all this both we and other Princes be at this day chief and heads. . . .<sup>2</sup>

Perhaps this royal argumentation was called forth by, or perhaps it in turn called forth, what Chapuys reported (on 22 May 1531), that "four days ago the clergy of York and Durham sent to the King a strong

<sup>1</sup> Or to some similar suggestion: the reply is printed in *Cabala* (ed. 1654), pt. II, my quotation beginning on p. 3.

<sup>2</sup> *Cabala*, pt. II, no. 1, referred to by T. D. Ingram, *England and Rome*, p. 160: *Cabala* and Wilkins (*Concilia*, III, p. 762) dated the letter 1533, but Ingram, May 1531, while the Convocation of York was debating the subject: so does Jeremy Collier, *Ecccl. Hist.* (ed. 1714), II, pp. 63, 64. The York subsidy was not finally passed till Nov. 1531, and therefore their pardon in the parliamentary session of 1532.

protestation against the supremacy which he pretends to have over them. The province of Canterbury have done the same...".<sup>1</sup>

There was trouble in cashing up not only the verbal concessions but also the monetary grants by which the Convocations had redeemed their premunire. On 1 September 1531 all the priests of the diocese of London assembled at the chapter-house of St Paul's, on the summons of John Stokesley their bishop, to be assessed to the grant. The bishop had meant to interview them a few at a time, but there were six hundred or more of them, and many temporal men there as well, and "a great number entered, for they put the bishop's officers that kept the door aside... The temporal men being present stomached and comforted the spiritual men to enter, so that by force they opened the door, and one struck the bishop's officer over the face". So Stokesley tried to reason with them all at once, since they would not be reasoned with half a dozen at a time, and explained how in their human frailty and unwisdom they had run into the premunire and forfeited all they had, were it not that the king's mercy had allowed them to compound: but he was answered, "My lord, twenty nobles a year is but a bare living for a priest, for now victual and everything in manner is so dear, that poverty in manner enforceth us to say nay: beside that, my lord, we never offended in the premunire, for we meddled never with the cardinal's faculties, let the bishops and abbots which have offended pay". Then there was more scolding and scuffling, till the bishop "with fair words appeased the noise, and for all things which were done or said there he pardoned them": but afterwards he "went to Sir Thomas More then being lord chancellor (which greatly favoured the bishop and the clergy)... whereupon commandment was sent to Sir Thomas Pargitor, mayor of the city, to attach certain priests and temporal men, and so fifteen priests and five temporal men were arrested, of the which some were sent to the Tower, some to the Fleet, and other prisons, where they remained long after".<sup>2</sup>

<sup>1</sup> *L. and P.* v, no. 251, and cf. no. 105 for Chapuys' views on premunire, and the negotiations for clerical grants: see P. Friedmann, *Anne Boleyn*, I, p. 142, for a reference to a copy of the Canterbury protest in the Vienna archives.

<sup>2</sup> Hall, II, p. 200. Cf. *L. and P.* v, no. 387, bill filed in star chamber by attorney-general against eighteen priests for conspiring to murder the bishop of London and evade payment of the clerical subsidy.

It is well not to trust Hall too far, but there seems no reason why he should not be trusted on the main facts here, and if so there are two or three deductions which make the incident ominous: the lower clergy did not controvert the philosophy behind Henry's use of premunire or behind his supreme headship, the thing they were concerned about was the demand of money from them; the resentment aroused by this demand they turned not against the king who was to enjoy the money but against the bishop who was to collect it; in this they were supported by, and appear to have welcomed, lay sympathisers; the bishop was not competent either to cow or to conciliate them; they were punished by lay, royal, authority, an authority wielded just then by a man of ecclesiastical sympathies but liable to be transferred at any moment by Henry to whatever hands he chose.

After a Christmas kept "with great solemnity, but all men said that there was no mirth in that Christmas because the queen and the ladies were absent",<sup>1</sup> and after a New Year's Day on which the gifts of the clergy "exceeded much the gifts of the lay nobility and gentry",<sup>2</sup> on 15 January 1532, Henry reassembled parliament, "principally for the divorce [thought the best-qualified of foreign observers]<sup>3</sup> and to ask money from the laity": the attendance was very full: Tunstall appears not to have been summoned and not to have come, and Fisher to have come without summons. According to Hall,<sup>4</sup> the commons "sore complained of the cruelty of the ordinaries", especially "for calling men before them *ex officio*". Whether or not these complaints were spontaneous, the commons in this session certainly proved willing enough to pass anti-clerical measures although they had the boldness to reject government bills whose tendencies they strongly disapproved.

The first chapter of this session's work recalled the trouble that earlier kings had had with felonious clerks, and the misbehaviour of arch-bishops and bishops in that connection and the necessity that the king

<sup>1</sup> Hall, II, p. 202: till more than halfway through 1531 Catharine had continued to be the lady of Henry's household, to look after his washing and so on: in August 1531 she was banished from court: after that year she and Henry did not meet: cf. Friedmann, I, pp. 147 ff.

<sup>2</sup> J. Strype, *Ecclesiastical Memorials*, I, p. 137.

<sup>3</sup> Chapuys to Charles V, *L. and P.* v, no. 737.

<sup>4</sup> II, p. 202.

by his authority royal put speedy remedy, and enacted that no one convicted of the more serious felonies should have benefit of clergy unless actually in holy orders, or even if in holy orders should be admitted to purgation without sureties for good behaviour. Chapter nine recited the evils of undue citations in the spiritual courts and restrained them for the future.<sup>1</sup> Chapter ten forbade feoffments or assurances to the use of churches or religious bodies for more than twenty years. Chapter eleven made breaking out of prison by convicted clerks felony without benefit of clergy. Chapter nineteen assured the king's pardon to his spiritual subjects of the northern province for all offences against provisors, provisions, and premunire. Chapter twenty was the great act of annates. The later chapters were unimportant, but a few of the earlier ones deserve mention—for justices of the peace to build and maintain gaols by public rates,<sup>2</sup> for confirming the Navigation Acts of Richard II and Henry VII,<sup>3</sup> for amending and maintaining the west-country ports,<sup>4</sup> for personal property instead of freehold land to qualify jurors in towns to hear accusations of felony,<sup>5</sup> forbidding the sale of horses to Scotland.<sup>6</sup> These sufficiently indicate the sort of questions of policy which the king found urgent, and the sort of solutions upon which he and parliament readily agreed. But the great question was not so easily solved.

On 25 January 1532 Clement VII wrote to Henry expressing his grief at hearing that he had recently removed Catherine from his court and cohabited openly with a certain Anne, and his hopes that he would see how unbecoming it was of him to decide in his own cause, how much his action would gratify heretics; to conclude, the pope hoped that Henry would take Catharine back again, and put away Anne. Such hopes by then were empty, and no one could doubt that they were

<sup>1</sup> The act prohibited "the citation of persons outside their dioceses, and Henry had been cited to Rome. Warham protested, logically but in vain, that his was a papal-legate jurisdiction [as *legatus natus*]; and he implied that its repudiation meant a breach with Rome": see references to *L. and P.* v, pp. 818, 1247, and cf. p. 191 below.

<sup>2</sup> 23 H. VIII c. 2.

<sup>3</sup> C. 7, confirming 5 R. II st. i, c. 3; 6 R. II st. i, c. 8; 4 H. VII c. 10.

<sup>4</sup> C. 8.

<sup>5</sup> C. 13.

<sup>6</sup> C. 16.

empty of all but piety. The expression of them was, no doubt, intended as a gentle warning to Henry that sentence could not be much longer delayed, and would be unfavourable. On the same day Charles V's envoy in Rome was reporting that two briefs directed to Henry were already prepared, one "admonishing him with all benevolence and threatening excommunication", the other to be sent in case of disobedience: "in it the king of England is excommunicated if he does not cast off his concubine Anna in fifteen days, and return to the Queen".<sup>1</sup>

Things at Rome were getting worse and worse, the emperor was doing his best to precipitate an unfavourable decision and was likely to succeed, trouble threatened from the Scots, Henry was trying to strengthen his position by confirming his alliance with Francis and by using the German princes against Charles:<sup>2</sup> such was the state of high politics during the parliamentary session which produced the Act of Annates.

To that act it is now time to turn: it is generally called the first, to distinguish it from that of 1534, but it is not the first statute about annates.<sup>3</sup> Annates indeed were everywhere of questionable validity. In England they were only some two centuries old, and were always restricted to bishoprics. In 1404 the statute 6 H. IV c. 1 recited that "a horrible and damnable custom had been lately introduced into the court of Rome, that no ecclesiastic should have provision for an archbishopric or bishopric until he had compounded with that Court to pay great and excessive sums of money for the first fruits", and enacted that in future no greater sums should be paid than had been customary in old times. In 1528 the subject had been discussed in a friendly way by royal ambassadors with the Roman authorities:<sup>4</sup> the onslaught on annates in February 1532 was not worked up out of nothing by any one.

But it seems clear that it was the king's doing in the main. Cromwell

<sup>1</sup> *L. and P. v*, no. 748, p. 357: cf. p. 193 below.

<sup>2</sup> *L. and P. v*, nos. 773, 790, 800, 801, 826, all from Feb. 1532.

<sup>3</sup> The first year's revenue of a benefice, to be paid by a new incumbent to the pope.

<sup>4</sup> T. D. Ingram, *England and Rome*, p. 163.

was doubtful of the success of the bill in the house of lords, where it was initiated,<sup>1</sup> and where in fact all the bishops and abbots,<sup>2</sup> and one lay peer, opposed it: nor did it pass easily through the commons: according to Chapuys,<sup>3</sup> Henry himself gave them to understand that in Spain and other places annates were not paid, and in England they had amounted in fifty years to two millions of gold. He promised also not to take any new measures against the pope's authority for a year, and meanwhile would treat with him. Seeing that these remonstrances were fruitless, he "thought of a plan, which proved ultimately successful, viz., that those among the members who wished for the king's welfare and the prosperity of the kingdom, as they call it, should stand on one side of the House and those who opposed the measure on the other. Several of them for fear of the king's indignation went over",<sup>4</sup> and the bill was passed, with some modification. Even if this report be not in all respects accurate, and the division not as remarkable as Chapuys thought, it is certain at least that a remarkable amount of royal

<sup>1</sup> *L. and P.* v, no. 723.

<sup>2</sup> *L. and P.* v, no. 832, 28 Feb. 1532, and no. 879: cf. II, no. 1313 (1515, over Standish case, p. 115 above), where the judges said the king could hold a parliament without the spiritual lords. Not so very long before, it seems to have been possible to argue that a majority of the knights of the shires was necessary to making an act of parliament. cf. *Y.B.* 15 E. IV, pl. 2, debt sued against an abbot and convent, argument that the obligation was entered into by the late abbot bullying the convent with imprisonment and menace, with interesting reflections on the nature of a corporation. *Lutlinton*. Even if the minority was imprisoned that would not void the obligation, for "in parliament if the greater part of the knights of the shires assent to the making of an act of parliament, and the lesser part is not willing to agree to that act, yet it will be good statute to last in perpetuity, and so in the other case". Even at the end of Henry VIII's reign the notion of the indispensability of each estate was not dead, cf. Muller, *Letters of Stephen Gardiner*, p. 420 (Foxe ed. Pratt, VI, p. 51). Gardiner comparing justification, not by faith *only*, to "making of laws in this Parliament, where the acts be passed by three estates" and given life and force by the king, cf. p. 410, 4 Nov. 1547, p. 443, Dec. 1549, complaints of absence from parliament, and p. 424, Nov. 1547, suggestion that this parliament may afterwards be called in question because of the absence of Gardiner and of "those I have used to name in the nether house". cf. below, p. 405.

<sup>3</sup> He began by saying that the commons at first refused it, though almost all of them chosen at the king's wish, *Sp. Cal.* 1531-3, p. 416, 26 March, 1532. Cf. *L. and P.* v, no. 879, Chapuys 20 Mar. 1532, "The King has been at the Parliament three times lately, and has played his part so that the article about the annates has been passed"; Norfolk "completely occupied" with parliament.

<sup>4</sup> Same reference. Cf. A. F. Pollard, *Henry VIII*, p. 290.

persuasion, and the remarkable expedient of a division, were necessary to get the bill through.<sup>1</sup>

Even such efforts had not sufficed to make parliament subservient in all respects. Chapuys reported<sup>2</sup> that the king had "been trying to obtain in parliament the third part of the feudal property of deceased persons, but he has not yet succeeded, and the demand has been the occasion of strange words against the king and council. Nothing has been concluded, except a prohibition to import new wines till Candlemas".<sup>3</sup> It was not only in connection with annates, then, that Henry's mind was running on the taxing of succession to property: but his repeated efforts to get through his bills of Wills and of Uses, in the interests of royal rights on the passage of feudal property,<sup>4</sup> were unsuccessful, and the criticism of the bills widespread and outspoken:<sup>5</sup> nor was he much luckier in the matter of direct supply, the commons making only the inadequate offer of one fifteenth.<sup>6</sup>

So parliament was not simply doing as it was told, and, as for its opposition to the annates bill, it is not certain that it was directed against the bill's nominal object, the restraint of annates.<sup>7</sup> Prelates no more than other men like paying taxes, and English prelates might well feel that in that respect they were peculiarly miserable: nor is it quite plain why the citizens and burgesses should have been so much concerned to preserve an arrangement by which great sums of money flowed out of England: but the Act of Annates contained incidentally and by implication a good deal which might alarm any one not prepared for revolutionary ecclesiastical changes.

<sup>1</sup> Though possibly the main difficulty (as A. F. Pollard suggests, *Cranmer*, p. 54) was to persuade the commons to leave it to the king to decide whether the Annates Act was to be enforced or not.

<sup>2</sup> On 14 Feb. 1532, *L. and P.* v, no. 805.

<sup>3</sup> 23 H. VIII c. 7, which also confirmed the Navigation Acts.

<sup>4</sup> Henry had been instructing Cromwell to prepare "a bill of primer seisin" as early as a year before: *L. and P.* v, no. 394. And cf. pp. 132 above, p. 205 below.

<sup>5</sup> Hall, II, p. 204.

<sup>6</sup> *L. and P.* v, no. 762, Chapuys reported (30 Jan. 1532) the king's request to the commons for a grant, for national defence: no. 941, 16 April, that More, Norfolk, and other lords went to the house of commons to press the same request: no. 1046, cf. p. 181 below.

<sup>7</sup> Cf. note 1 above.

The act<sup>1</sup> recited how annates, grounded upon no just or good title, were extorted by the withholding of confirmatory bulls, to the great damage of the prelates and the realm; and how the king and his people, spiritual and temporal, were as obedient, devout, catholic, and humble children of God and holy church as any; and declared, "by the whole body of this realm now represented by all the estates of the same assembled in this present parliament, that the king's highness before Almighty God is bound, as by the duty of a good Christian prince, . . . to obviate, repress, and redress the said abuses and exactions": it therefore enacted that thenceforth not more than five per cent. of the first year's income should be paid, and that any one named by the king to a bishopric and hindered by the restraint of bulls or other things requisite from Rome should be consecrated by his archbishop, or any one named to an archbishopric by two bishops. But since the king and his parliament much preferred gentle courtesy and friendly ways to any manner of extremity or violence, it was left to the royal discretion to make some friendly, loving, and tolerable composition with the court of Rome, and the king was given a year in which to try, and to decide, according to his success or failure, whether the act or any part of it be valid or not. And if the court of Rome endeavoured to wield excommunication, interdict, or process compulsory, then all manner of sacraments and divine service should continue to be administered, and the interdict, etc. should not by any prelate or minister be executed or divulged.

There were contemporary observers who did not doubt that the object of this act was to increase the king's bargaining power against the pope: certainly Henry used it in that way, wishing the nuncio to "write to the pope that it would be a great benefit to his holiness, provided he granted his demands".<sup>2</sup> He protested, indeed, that he was not the initiator:<sup>3</sup> "Whenever the statute is mentioned you shall instil

<sup>1</sup> H. Gee and W. J. Hardy, *Documents Illustrative of English Church History*, p. 178.

<sup>2</sup> *L. and P.* v, no. 941, Chapuys' dispatch of 16 April 1532: see also no. 898, his dispatch of March 26, and no. 832 (Feb. 28).

<sup>3</sup> No. 832 above, and especially no. 886, 21 Mar. 1532, Henry VIII to his envoys at Rome, from which come my quotations.



into their ears how incessant have been our efforts to resist the importunity of our people for passing the statute": but in this same letter Henry had already said,

You will easily see that the statute is so conceived that such of the cardinals who wish us well and favour us ought to rejoice at it, and those who oppose us, be sorry; and though from Christian charity we abhor retaliation, yet we are not so preposterously patient to endure injuries with equanimity to which we have hitherto submitted, such as the payment of annates. Your dexterity will be chiefly shown by explaining to the cardinals who are moved by their interests how this statute will be to their advantage or disadvantage. If the pope and the cardinals complain of the annates being discussed in parliament, you shall answer that such discussion with us is unfettered,<sup>1</sup> nor can we prevent them from speaking and determining according to their opinion whatever is for the advantage of the State. . . . The pope and the cardinals may gain our friendship by truth and justice. Take care that they do not hope or despair too much from this power which has been committed to us by the statute. I do not mean to deceive them, but to tell them the fact that this statute will be to their advantage, if they show themselves deserving of it; if not, otherwise.

The French envoy put it all more simply:

The king has been very cunning, for he has caused the nobles and people to remit all [definite action about annates] to his will, so that the pope may know that if he does nothing for him he has the means of punishing him.<sup>2</sup>

But questions of immediate purpose and personal responsibility are not here the most important. Parliament was not a mere tool, and it passed the bill: Henry was very glad of a stick to beat the pope with. The important thing about this stick was that it could sprout and grow, not that it would be wielded to inflict a pecuniary fine upon the Roman curia but that it might be developed so as to make that court cease to be, for English purposes, a *curia* at all. Such a conception was visibly

<sup>1</sup> Cf. above, e.g., p. 50, earlier uses of parliament as diplomatic weapon. And see also Gardiner's *Letters*, p. 282, 21. v. 47, "I beseech your Grace [Somerset] to pardon me, for I am like one of the Common House, that, when I am in my tale, think I should have liberty to make an end".

<sup>2</sup> *L. and P.* v, no. 150, where (as is pointed out by A. F. Pollard, *Henry VIII*, p. 291) it is misdated 23 Mar. 1531 instead of 1532.

approaching practical politics. On 24 February 1532 Warham archbishop of Canterbury protested formally "against all enactments made in the parliament commenced in the Blackfriars, 3 Nov. 1529, in derogation of the pope's authority, or of the ecclesiastical prerogative of the province of Canterbury".<sup>1</sup> At about the same time Henry was writing, probably to Tunstall, that he was

informed by virtuous and learned men that, considering what the Church of Rome is, it is no schism to separate from it and adhere to the words of God. The lives of Christ and of the pope are very opposite, and therefore to follow the pope is to forsake Christ. . . . The supremacy of the pope is usurped. No church can be bound by any interpretation of scripture which appears to it to be forbidden by God. . . . God willing, we shall never separate from the universal body of Christian men. . . . As to the duty of an inferior church submitting to a superior, it must be considered whether there is any such superiority in God's laws. . . .

Nor were such argumentations for confidential use only: this very letter was in defence of a book published by royal authority.

So that the more explosible parts of the Act of Annates were not there by inattention or without regard to their capacity for expansion. Henry's own gloss on its genesis, indeed—"such discussion with us is unfettered, nor can we prevent them from speaking and determining according to their opinion whatever is for the advantage of the state"<sup>2</sup>—needs only to be taken barely and literally in order to become a plain statement of the full modern doctrine, an unchecked omniscient assembly governing by the majority's view of utility a society essentially secular. To take it so, to forget that it was a piece of debating with a very special reference, would be absurd, but when every allowance has been made it remains a very significant statement: nor was it a mere theoretical statement, of what might in course of time be evolved from the immanent logic of the statute: the statute was itself in fact already acting very practically as if the theory had gone pretty far, and precisely in the way most injurious to the court of Rome. "The whole body of this realm"<sup>3</sup> was indeed in a sense "represented by all the estates of

<sup>1</sup> *L. and P.* v, no. 818, referred to by Wilkins, III, p. 746, and Burnet, VI, p. 54.

<sup>2</sup> Cf. pp. 171, 174 above.

<sup>3</sup> Cf. pp. 171, 173 above.

the same assembled in this present parliament", but the whole of one estate, since all the prelates had been against the bill, had refused participation in its act, and that the act should be nevertheless valid, a majority of estates bind a minority as in the case of individuals, deprived the *estates* idea of most of its meaning, much the more because the act undertook, incidentally to its specific purpose, to vary the mode of appointment of the grandees of the dissentient estate, who were also the great officers of the Christian society, or at least of the more specifically Christian organisation of society, and the act further undertook to forbid these officers, even though enjoined to it by the greatest of ecclesiastical personages, to use what were no doubt properly ecclesiastical methods of coercion, if any methods could be.

On the other hand<sup>1</sup> it is necessary to remember that there was nothing novel about ensuring the royal influence or annulling the papal influence on episcopal appointments. No pope took any part in the appointment of an archbishop of Canterbury for five hundred years before the reign of Henry II. It was soon after that reign that the pope began to claim the right to confirm and consecrate all metropolitans, half a century later the papal practice of *providing* for benefices began, and in 1363 all episcopal appointments were thus reserved to Roman arbitrament, so that the old canonical confirmation by the provincial metropolitan died out. The papal provision was taken as equivalent to an acceptance and confirmation by the Church of the chapter's election, and the kings, who had always had a very important share in the selection of bishops, strong with the Statutes of Provisors and Premunire, "became in every way masters of the situation". The two successions of acts which made a man a bishop looked quite different from Rome and from Westminster.

In Rome the whole process of the appointment was regarded as having been carried out by the Pope, who effected it by his reservation of the appointment *ea vice specialiter* to himself, followed up by his bull of provision. . . . In England, when the fact of the vacancy in the see had been notified by the Church to the King, and when the Church

<sup>1</sup> For all this paragraph, cf. F. W. Puller, *Orders and Jurisdiction*, pp. 160, 164, 169, 172, 173 (the phrase in inverted commas), 175, 182 (sentence in inverted commas).

had humbly petitioned for leave to proceed to the election of a successor, the King issued his *Congé d'elire* to the Chapter, and sent it with his Letters Missive naming the person, A.B., whom he wished them to elect, on the receipt of which the election took place in due canonical form, and its result was reported to the King for his approval. From the papal point of view the whole of this proceeding was an absolute nullity; but it was not so regarded in England. It is true that even in England the traditional Catholic procedure was not fully carried out. The election, after having been approved by the King, ought to have been reported to the Archbishop to be either confirmed or quashed by him. But what actually happened was that the King presented and nominated or commended to the Pope A.B., as being the person whom he wished the Pope to appoint to fill the vacant see. Whereupon the Pope, taking no notice of the election by the Chapter, issued his bull of provision in favour of the person named to him by the King. But when the bull reached England, the King, when referring to it, spoke of it as the instrument by which the Pope had confirmed the election by the Chapter, and from the reign of Edward I onwards he compelled the Bishop-elect to renounce formally all words in the bull that were prejudicial to the royal authority.<sup>1</sup>

All this may help to explain how it is possible to say that "the last Archbishop of Canterbury before the Reformation who was properly and canonically elected, confirmed, and consecrated in England was St Thomas Becket in 1162",<sup>2</sup> when he was confirmed by his suffragans: or that

although the Archbishops' right of confirmation [of episcopal appointments] was not supposed to be abrogated, . . . between 1345 and 1534 it was ordinarily waived. The avoidance of any clashing between the canonical jurisdiction of the Archbishops and the uncanonical reservations of the Popes was no doubt helped forward by the docility of the Popes, who very seldom failed to accept and appoint the nominee of the Crown:<sup>3</sup>

or even possible to say that the canonical system was brought back into use by the Acts of Annates. It is with reference to the first of these acts that the explanation is immediately relevant—how it struck

<sup>1</sup> Puller, p. 183, and see his reference to Stubbs, *Constitutional History* (ed. 1878), III, p. 309.

<sup>2</sup> Puller, p. 167.

<sup>3</sup> Puller, p. 176.

at one of the main articulations of the centralised Roman system and was so far revolutionary, and how it could nevertheless be defended as a restoration.

That no religious revolution was desired by the bulk of the prosperous Englishmen who sat in parliament is a safe assumption: on the other hand, they were no doubt eager enough for a return to the good old times, in the church as elsewhere, and for that pleasing sort of reformation which consisted in tautening up the manners and morals of their preceptors and in relaxing their own material liabilities to their spiritual pastors. They did not grasp as readily as Henry would have liked the case for an immediate and drastic re-definition of jurisdictional and administrative boundaries: otherwise they would have made a better welcome for his first Act of Annates<sup>1</sup> and they would have seen how intolerable was ecclesiastical jurisdiction in matrimonial affairs. Norfolk and Rochford had been (Feb. 1532)

trying to suborn the archbishop of Canterbury,<sup>2</sup> whom they consider as Pope of England. However, he was so well warned that they could not shake him; and it seems that as they despair of gaining their end by an ecclesiastical way, they will take some other road. Lately the Duke assembled a number of persons, and told them how badly the Pope had treated the King by not remitting the cause according to the privileges of the kingdom; and even without these privileges the case ought to be treated here, as certain doctors say that matrimonial causes belong to the temporal jurisdiction, not the spiritual, and that jurisdiction belongs to the King, who is emperor in his kingdom, and not to the Pope; and he asked them for their advice and whether they would not employ their persons and goods in preserving the royal rights. The first who replied, lord Darcy, said that his goods and person were at the King's disposal, but he had heard and read that matrimonial cases were spiritual and under ecclesiastical jurisdiction, and that the King and Council knew what had to be done, without wishing to make trouble for other people.<sup>3</sup> Most of those present agreed with this answer, but the Duke was not pleased.

<sup>1</sup> Cf. p. 173 above.

<sup>2</sup> Was he moved partly by this when he made his protest? Rochford was Anne Boleyn's brother. The reporter here is Chapuys (*L. and P.* v, no. 805, 14 Feb. 1532), and there seems no reason to doubt the report.

<sup>3</sup> "...sans vouloer mettre le chat entre les jambes des autres."

Norfolk himself was writing a little later,<sup>1</sup>

I have discharged my conscience like a true Catholic.<sup>2</sup> Though the Church in this realm hath many wringers at her high authorities, nothing hurtful shall be done, unless the fault be in the pope in proceeding wrongfully against the King. Notwithstanding the infinite clamours of the temporality here in parliament against the misuse of the spiritual jurisdiction, the king will stop all evil effects if the pope does not handle him unkindly.

It is true that he was writing to the ambassador at Rome, and that the ambassador was being told what it might be useful for him to repeat. "I trust we may before Easter finish our parliament in good sort, but it must depend upon the good news from you." There need be no doubt that the *Supplication against the Ordinaries* was inspired and edited by the government, but there need be little more that Hall was fairly reporting at least some considerable section of the commons, when he wrote that they "sore complained of the cruelty of the ordinaries,<sup>3</sup> for calling men before them *ex-officio*", and that "this matter and other exactions done by the clergy in their courts were long debated". According to Chapuys<sup>4</sup> some of them were willing to go much further still, "discussing the abolition of the authority of archbishops over bishops, and the transference thereof to the king. The earl of Wiltshire is one of the principal supporters of the proposal", which might indeed be attributed to his being father of Anne Boleyn, and one of the "apostles of the new sect"; but he was not generally the champion of a thrusting policy.

The *Supplication against the Ordinaries* was presented to the king on 18 March 1532. It complained that

by the diffusion of heretical books in English, printed abroad, and the uncharitable demeanour of divers ordinaries in prosecutions before the

<sup>1</sup> *L. and P.* v, no. 831, to Benet, 28 Feb. 1532.

<sup>2</sup> "He had never read the scriptures," he was reported to have said eight years later, "nor never would, and it was a merry England before this new world came up," *L. and P.* xvi, no. 101.

<sup>3</sup> Bishops. Hall, II, p. 202. Cf. *L. and P.* v, App. no. 28, and (though these are from the previous year) nos. 49, 50.

<sup>4</sup> 6 March 1532. *L. and P.* v, no. 850.

spiritual courts, much discord has arisen between spiritual and temporal persons generally; for the Reformation of which the Commons set forth the following grievances, viz. that the clergy in Convocation make laws inconsistent with the laws of the realm; that men, and especially poor men, are arbitrarily cited before the spiritual courts, often without any accuser, by the ordinaries and their commissaries; the citation of laymen out of their dioceses;<sup>1</sup> the excessive fees taken in the spiritual courts; the delay and trouble in obtaining probates notwithstanding the last statute;<sup>2</sup> delays made in instituting parsons by the ordinaries, who sometimes simoniacally take bonds for a part of the profit of the benefices; the giving benefices to minors; the excessive number of holy days, especially in the harvest time; and the employment of spiritual persons in temporal offices.<sup>3</sup>

This was fine confused grumbling: no doubt much of it was wide-felt, and most of it had some justification: it has been remarked<sup>4</sup> that the grievances were not the ones that Henry minded: this is true, but not true enough. Henry had just attacked the finance of the ecclesiastical organisation and made it clear that in support of his attack he was ready to flout any Roman claim to the appointment of that organisation's officers or to the control of their functions. How better could he generalise this attack into an assault upon the whole ecclesiastical claim than by denying to the church all legislative competence and by summoning to his aid all the scattered dislike of the church's misdeeds? Such tactics might seem all the more attractive since convocation was at this very time actually engaged in examining abuses and preparing canons.<sup>5</sup> But the manner in which the king accepted the Supplication seems to show that the whole thing was not a mere farce; otherwise his promise of impartiality and his reasons for refusing dissolution would have been too absurd:

For you require to have the parliament dissolved and to depart into your countries, and yet you would have a reformation of your griefts

<sup>1</sup> Cf. 23 H. VIII c. 9 and pp. 169 above, 182 below, and the advocacy of Henry's own suit to Rome.

<sup>2</sup> 21 H. VIII c. 5.

<sup>3</sup> *L. and P.* v, no. 1016.

<sup>4</sup> E.g. by A. F. Pollard, *Henry VIII*, p. 291.

<sup>5</sup> Cf. R. W. Dixon, *History of the Church of England*, 1, p. 87.

with all diligence. Although that your pain hath been great in tarrying, I assure you mine hath been no less than yours, and yet all the pain that I take for your wealths is to me a pleasure: therefore if you will have profit of your complaint, you must tarry the time, or else to be without remedy: I much commend you that you will not contend nor stand in strife with the spiritual men, which be your Christian brethren, but much more methinketh that you should not contend with me that am your sovereigne lord and king, considering that I seek peace and quietness of you. For I have sent you a bill concerning wards and primer seisin, in the which things I am greatly wronged; wherefore I have offered you reason as I think, yea, and so thinketh all the lords, for they have set their hands to the book; therefore I assure you if you will not take some reasonable end now when it is offered I will search out the extremity of the law, and then will I not offer you so much again.<sup>1</sup>

When parliament met again after Easter<sup>2</sup> the first business proposed to it was the danger from Scotland. At about the same time<sup>3</sup> negotiations were going on with France for insurance against that danger and for help against the pope and the emperor, culminating in a treaty<sup>4</sup> binding France and England to mutual assistance against any imperial attack. But, as always, the nearest danger was the Scots and the nearest help the commons. So the lord chancellor, accompanied by some half dozen of the leading noblemen, was sent to the lower house, where he explained how the king had been warned of the need to put the border into a better state of defence: "wherefore considering the king's good intent, he said that the lords thought it convenient to grant to the king some reasonable aid toward his charges, and prayed the commons to consult on the same".<sup>5</sup> This appeal provoked a good

<sup>1</sup> Hall, II, p. 203: Hall thought the majority of the commons had been fools: "For after this the king called the judges and best learned men of his realm and they disputed this matter in the chancery, and agreed that land could not be willed by the order of the common law, whereupon an act was made that no man might declare his will of no part of his land; which act sore grieved the lords and gentlemen that had many children to set forth".

<sup>2</sup> It was prorogued at the end of March, till 10 April 1532.

<sup>3</sup> Cf. P. Friedmann, *Anne Boleyn*, I, p. 153, and *L. and P.* v, nos. 941, 1013.

<sup>4</sup> Signed in April and ratified on the 30th: cf. Friedmann's references to Camusat, *Mélanges Historiques*, II, fols. 84-8.

<sup>5</sup> Hall, II, p. 205.



deal of criticism, and was not immediately successful: according to Chapuys,<sup>1</sup>

Two worthy men dared to say openly that the fortification was needless, as the Scots could do no harm without foreign aid, and that the best fortification was to maintain justice in the kingdom and friendship with the emperor; and to this end the estates should petition the king to take back his wife and treat her well, otherwise the kingdom would be ruined, as the emperor could do them more harm than any other, and would not abandon the rights of his aunt: the discord which the cause was provoking would ruin the kingdom. These words were well taken by all present, except two or three.

Perhaps Chapuys exaggerated the unanimity, but at any rate the bold speaker had a good deal of support, and probably most of it was due to an argument which Chapuys does not report though Hall does<sup>2</sup> "bastarding the Lady Mary, the king's only child". Chapuys reported that Henry sent for most of the members and made them a long speech justifying his action about the "divorce", promising them support against the Church, and hinting at mitigation of "the Inquisition which they have here, and which is said to be more severe than in Spain. . . . The Estates have now granted a fifteenth. . . . Many think there will be some disturbance at the collection".<sup>3</sup> The king, he went on, was not present as usual at the final meeting, and neither refused nor accepted the fifteenth, "waiting till the clergy offer a Tenth; which they would not grant, neither would they revoke their constitution. The king is much displeased, and is determined to succeed either in a friendly way or otherwise".

The Supplication had been laid before Convocation by the primate on 12 April 1532. On or about the 28th their answer, of which the

<sup>1</sup> Writing on May 2, *L. and P.* v, no. 989: cf. p. 172 above and cf. no. 1059, a letter to Charles V from Montfalconet, in England as a special envoy to get help against the Turk: after reporting the argument of the commons he adds, "They soon, however, altered their tone". He also said that every one was displeased with the pope, "and even a little with Charles", and that every one loved the queen. Cf. p. 172, n. 6 above.

<sup>2</sup> II, p. 210: he also says (p. 205) that the delay in enacting the parliamentary grant was caused by a pestilence, "wherefore the parliament was prorogued till the next year".

<sup>3</sup> *L. and P.* v, no. 1046, 22 May 1532.

principal author was Gardiner, was submitted to the king, who on the last day of the month<sup>1</sup> delivered it

to the Speaker, saying, we think their answer will smally please you, for it seemeth to us very slender; you be a great sort of wisemen, I doubt not but you will look circumspectly on the matter, and we will be indifferent between you. . . . And further the king said, that he marvelled not a little why one of the parliament house spake openly of the absence of the queen from him, which matter was not to be determined there; for he said it touched his soul, and wished the matrimony to be good, for then had he never been vexed in conscience, but the doctors of the university (said he) have determined the marriage to be void, and detestable before God; which grudge of conscience caused me to abstain from her company, and no foolish or wanton appetite; for I am (said he) forty-one years old, at which age the lust of man is not so quick as in lusty youth: and, saving in Spain or Portugal it hath not been seen that one man hath married two sisters, the one being carnally known before: but the brother to marry the brother's wife was so abhorred amongst all nations, that I never heard it, that any Christian man did it, but myself: wherefore you see my conscience troubled, and so I pray you report.

Henry's willingness to argue on this occasion is to be remembered along with his occasional use of the star chamber or of the printing press or of the pulpit<sup>2</sup> to obtain favourable publicity for his intentions: and also along with his answer to the deputies of the commons who had brought him the Supplication and at the same time a request for dissolution. He did not rely upon the mere imperative, and this argumentation cannot have been altogether scandalously disingenuous nor unmistakably stultified by clamorous fact.

The most important part of the answer of the ordinaries<sup>3</sup> was their defence of the ecclesiastical right of legislation and that was as important as could be, going to the very heart of the great questions of politics—where is obedience due? and how much obedience?

To this article we say, that forasmuch as we repute and take our authority of making laws to be grounded upon the Scripture of God,

<sup>1</sup> Hall, II, p. 209.

<sup>2</sup> Cf. Gairdner, p. 118; *L. and P.* v, no. 879.

<sup>3</sup> Wilkins, III, p. 750: I have altered the punctuation slightly. There is a fuller version than mine in Gee and Hardy, p. 154.

and determination of holy church, which must also be a rule and square to try the justice of all laws, as well spiritual as temporal, we verily trust that considering the laws of this realm be such as have been made by most christian, religious, and devout princes and people, how both these laws proceeding from one fountain, the same being sincerely interpreted and after the good meaning of their makers, there shall be found no repugnancy nor contrariety, but that the one shall be found as aiding, maintaining, and supporting the other. And if it shall otherwise appear,

then of course they would alter their statutes to fit scripture and holy church, and they

hope in God, and shall daily pray for the same that your highness will, if there appear cause why, with the consent of your people, temper your grace's laws accordingly. . . . And as concerning the requiring of your highness's royal assent to the authorizing of such laws as have been by our predecessors or shall be made by us, in such points and articles as we have by God authority to rule and order by provisions and laws,

they knew that Henry was uniquely qualified not merely to assent but even to initiate:

nevertheless considering we may not so nor in such sort restrain the doing of our office in the feeding and ruling of Christ's people, your grace's subjects, we most humbly desire your grace (as the same hath done heretofore) so from henceforth to show your grace's mind and opinion to us, what your high wisdom shall think convenient, which we shall most gladly hear and follow, if it shall please God to inspire us so to do;

at the same time beseeching him "to maintain and defend such laws and ordinances as we, according to our calling and by the authority of God, shall for his honour make to the edification of virtue"; and as to the complaint in the Supplication that some of the said laws infringe the royal prerogative, fortunately Henry was "so highly learned" that he would of his "own most bounteous goodness facilely discharge and deliver us from that envy". In short, the criterion of Law was scripture, the expositor of scripture was the Church, the

Church's laws depended directly on God's law, "against which no laws can stand or take effect".

What action, if any, was taken by the commons on this reply does not appear:<sup>1</sup> the king's hint of dissatisfaction produced a second answer, in which the clergy, after expressing the opinion that Henry's incomparable learning far exceeded the learning of all other kings or princes, offered to forbear from future legislation without royal license and to submit existing legislation to the royal censure, "saving to us always all such immunities and liberties of this church of England as hath been granted unto the same by the goodness and benignity of your highness and of others your most noble progenitors, with all such constitutions provincial as do stand with the laws of almighty God and holy church and of your realm heretofore made . . .".<sup>2</sup> Yet again, in a third answer, they maintained that "the prelates . . . have a spiritual jurisdiction and judicial power to rule and govern in faith and good manners . . . and that they have authority to make and ordain rules and laws tending to that purpose", as Henry himself had proved in his book against Luther: nevertheless any new laws should be by royal assent "except they be such as shall concern the maintenance of the faith and good manners in Christ's church", and as for laws made in the past, such "as contain any matter contrary to your laws or prerogatives, and be not now in use and do not concern the faith nor reformation of sin, when we shall be advertised of them, we shall right gladly in that part revoke them".<sup>3</sup>

At about the same time, according to Chapuys,<sup>4</sup> parliament was discussing the revocation of all synodal and other constitutions made by the English clergy, and the prohibition of holding synods without express licence from the king. This is a strange thing. Churchmen will be of less account than shoemakers, who have the power of assembling and making their own statutes.<sup>5</sup> The king also wishes bishops not to

<sup>1</sup> Cf. Gairdner, *English Church in the XVIth Century*, p. 119.

<sup>2</sup> Wilkins, III, p. 752.

<sup>3</sup> Wilkins, III, p. 753.

<sup>4</sup> 13 May 1532, *L. and P.* v, no. 1013.

<sup>5</sup> But the subordination of economic associations was precisely one of the features of the age: cf. *Henry VII*, p. 137.

have the power of laying hands on persons accused of heresy, saying that it is not their duty to meddle with bodies, and they are only doctors of the soul. The chancellor and the bishops oppose him. He is very angry, especially with the chancellor and the bishop of Winchester,<sup>1</sup> and is determined to carry the matter.

So the clergy's attempts to save the principle were pretty hopeless: on 10 May 1532 Foxe<sup>2</sup> brought to convocation three articles proposed by the king,

First, that no constitution or ordinance should be thereafter by the clergy enacted, promulged, or put in execution, unless the King's Highness did approve the same, . . . and his advice and favour were also interposed for its execution. . . . Second, . . . the constitutions provincial which had been heretofore enacted . . . should be committed to the examination and judgement of thirty-two persons, whereof sixteen were to be of the upper and nether house of the temporalty, and other sixteen of the clergy: all to be appointed by the King's Highness. So that finally whichever of the said constitutions should be thought and determined of the said thirty-two persons worthy to be abrogate and annulled, the same were to be afterward taken away, and to be of no force and strength. Third, that all others of the said constitutions, which stood with God's laws and the King's, should stand in full strength and power, the King's Highness' royal assent given to the same.<sup>3</sup>

The next day a new stimulation was applied to the anti-Roman party in parliament:

the king sent for the speaker again, and twelve of the commons house, having with him eight lords, and said to them, Well-beloved subjects, we thought that the clergy of our realm had been our subjects wholly, but now we have well perceived that they be but half our subjects, yea, and scarce our subjects: for all the prelates at their consecration make an oath to the pope clean contrary to the oath that they make to us, so that they seem to be his subjects and not ours: the copy of both the oaths I deliver here to you, requiring you to invent some order that we be not thus deluded of our spiritual subjects.<sup>4</sup>

<sup>1</sup> More and Gardiner.

<sup>2</sup> Edward, the king's almoner.

<sup>3</sup> Dixon, I, p. 102.

<sup>4</sup> Hall, II, p. 210, where also are the oaths.

The oath to the pope began, "I, John, bishop or abbot of A., from this hour forward shall be faithful and obedient to St Peter and to the holy church of Rome, and to my lord the pope and his successors canonically entering"; and later on it said, "The rights, honours, privileges, authorities of the church of Rome, and of the pope and his successors, I shall cause to be conserved, defended, augmented, and promoted". It might have been hoped that any injury here implied to the royal pretensions was remedied by the second oath,<sup>1</sup> taken later by every prelate, which began by utterly renouncing and clearly forsaking "all such clauses words sentences and grants which I have or shall have hereafter, of the pope's holiness, of and for the bishopric of A., that in any wise hath been is or hereafter may be hurtful or prejudicial to your royal highness, your heirs successors dignity privilege or estate royal": but Henry was in no mind to tolerate any sort of ambiguity, or even much delay. His three articles were indeed not at once given parliamentary force, partly because of the reluctance of bishops and chancellor, partly because of the pestilence, and partly (it may be<sup>2</sup>) because Henry was just as well pleased that the decisive definition should be decisive before it was parliamentary. Nor, it must be owned, had the commons shown any great haste to give statutory force to their own Supplication, the one enactment of this session which was strictly relevant to it having been passed, apparently,<sup>3</sup> before the Supplication. But both houses of convocation accepted, only one bishop dissenting,<sup>4</sup> the royal articles with but little variation

first do offer and promise *in verbo sacerdotii*. . . that we will never from henceforth enact . . . or execute any new canons . . . in our convocations, . . . which convocation is always hath been and must be assembled only by your high commandment of writ . . . Secondly . . . that it be committed to the examination and judgement of your grace and of thirty-two persons, whereof sixteen to be of the upper and

<sup>1</sup> But this argument cuts both ways: it might also be argued, and was sometimes argued at the time, that the first oath invalidated the second, where it conflicted with it: cf. p. 192 below.

<sup>2</sup> But this is pure guess-work.

<sup>3</sup> 23 H. VIII c. 9, no one shall be cited out of his diocese: cf. Dixon, I, p. 81.

<sup>4</sup> Gairdner, p. 122.

nether house of the temporalty and other sixteen of the clergy, all to be chosen and appointed by your most noble grace. So that finally whichsoever of the said constitutions ordinaments and canons provincial or synodal shall be thought and determined by your grace and by the most part of the said thirty-two persons not to stand with God's laws and the laws of your realm, the same to be abrogated and taken away by your grace and the clergy. . . .<sup>1</sup>

on 16 May 1532 this acceptance, the so-called Submission of the Clergy,<sup>2</sup> was presented to the king. On the same day More resigned the chancellorship,

seeing that affairs were going on badly, and likely to be worse, and that if he retained his office he would be obliged to act against his conscience or incur the king's displeasure, as he was already beginning to do, for refusing to take his part against the clergy. His excuse is that his remuneration<sup>3</sup> was too small, and he was not equal to the work. Every one is concerned, for there never was a better man in the office.

The same letter<sup>4</sup> described how on May 13

the nuncio<sup>5</sup> was summoned to the king; and . . . repeated the tenor of his brief, and gave it to the king, who seemed astonished and troubled, and said he was surprised that the pope should persist in this fancy of wishing him to recall the queen; for if his holiness said the queen was his wife, it was not his business to meddle with the way he punishes her for the rude behaviour she daily uses to him. . . . [I am] sure he will not obey the brief, but rather do worse. Since its presentation he has ordered the queen to remove after these holidays to a house much farther off. . . . It

<sup>1</sup> Wilkins, III, p. 754: it was embodied in the Act of Submission, 25 H. VIII c. 19, passed at the end of 1533. The commission was ultimately appointed by Edward VI, but its product (the *Reformatio Legum Ecclesiasticarum*) never received confirmation and has no legal force: cf. J. H. Blunt, *Reformation of the Church of England*, p. 229. Cf. p. 186 above, and p. 232 below.

<sup>2</sup> Gee and Hardy, p. 176, print the submission with the variations of the two drafts which survive and a note on their origin and present resting-place.

<sup>3</sup> *Traicement*: Gairdner translates *entertainment*. Cf. Roper, pp. xxix, xxx and *Harpfield*, pp. 58, 59 and notes, More asking through Norfolk for relief from the chancellorship, fearful of projects which might be contrary to his conscience (cf. p. 162 above) and therefore glad to use the truthful plea of ill-health.

<sup>4</sup> *L. and P.* v, no. 1046, Chapuys to Charles V, 22 May 1532.

<sup>5</sup> The baron de Burgo, a layman, sent from Rome in July 1530, a representative of papality different in every way from Wolsey.

is not surprising that the king does not take much notice of the brief,<sup>1</sup> for the pope could not have made it weaker. . . .

At about the same time the imperial ambassador thought it certain that Henry was trying to persuade Francis to treat the curia as he had done, and he was receiving from Norfolk admissions that the Boleyns were protecting heretics and requests "not to write to the pope about such little follies, as he would try and prevent them for the future".<sup>2</sup>

The process of constitutional definition was being steadily accompanied by the matrimonial process and by the process of theological dispute which so largely conditioned it. The first and the third came specially near to each other in the trial of Latimer,<sup>3</sup> which was a principal business of Convocation almost all through March and April 1532. Latimer<sup>4</sup> enjoyed some patronage from Thomas Cromwell, and it was perhaps on his advice that he appealed to Henry: the Supreme Head not only refused to be made into a judge of the faith but also took care to parade his willingness to act like a Christian prince and to burn the Church's reprobates:

Mr Latimer, I am *sure* ye have good learning, it were pity but ye *should hereafter preach* much better than ye have, for you *have been*

<sup>1</sup> It is printed by Pocock, II, p. 166: its gentleness seems to have been due partly to French solicitations, cf. A. Hope, *The First Divorce*, p. 251. The brief was sent on Jan. 25, but Catharine delayed its delivery. When in December the nuncio went to court to ask the king for a "power" for his cause to be tried at Rome, he was told (untruly, Chapuys thought) that Henry had taken pills and therefore could not see him, and instead he saw the duke of Norfolk and the Privy Council and others, who "all said that the Pope had done very ill not to remit the cause here, and the King would never send a power". Chapuys thought Henry "feared the presentation of some executive brief, and wished to show the Pope that his Council is more determined than himself": *L. and P.* v, no. 1633, p. 679.

<sup>2</sup> *L. and P.* v, no. 1013, Chapuys to Charles V, May 13.

<sup>3</sup> R. Demaus, *Hugh Latimer*, pp. 135 ff.

<sup>4</sup> The nature of his divagations at this time may be gathered from part of his defence: "Images, I own, are lawful; it is lawful to go on pilgrimages; it is lawful to pray to saints: it is lawful to care for the souls in purgatory; but these things, which are merely voluntary, are to be kept in such moderation that God's commandments which are of necessary obligation be not deprived of their just value. But what can be more unseemly than to employ our preaching in that which God has not commanded; whilst those things which are commanded thereby fall into neglect? It cannot be denied that there are, and have long been amongst us, intolerable abuses. . . ."



*forced to recant* and to be abjured, and I will not take *upon me now to be* a suitor to the bishops for you, *unless you promise to do penance as ye* have deserved, *and never to preach any* such things again. *Ye shall else only get from me* a faggot to burn you.<sup>1</sup>

Comforted with such geniality and overawed by so strong an orthodoxy, Latimer acknowledged that he had "not erred only in discretion, but also in doctrine",<sup>2</sup> and was received into favour on condition that any relapse should revive the old charges against him.

<sup>1</sup> Demaus, p. 142: the words in italics are supplied from conjecture.

<sup>2</sup> Wilkins, III, p. 748.

## CHAPTER XI

### CRANMER, BOLEYN, BARTON

The interest of the rest of the year 1532 was in diplomacy, in the means by which Henry tried to make his French ally trustworthy and his new archbishop unexceptionable. The old archbishop of Canterbury, Warham, eighty years old and more, was becoming towards the end a good deal less than satisfactory:<sup>1</sup> he had been wont to say that the prince's wrath was death:<sup>2</sup> the nearer he came to death the more he remembered that after death there was another Prince and another Wrath: and even *premunire* began to lose its terrors and the archbishop to pluck up courage to question the royal authority<sup>3</sup> and indeed to make assertions which cut deep into the principles of the *Annates Act*. He was charged with *premunire* in that, as far back as 1518, he had consecrated Standish to be bishop of St Asaph before he had exhibited his bulls to the king and had his temporalities<sup>4</sup> restored. In the reply which he drafted,<sup>5</sup> he argued, after appealing to precedent, that

if the archbishop cannot give the spiritualities to one who is pronounced a bishop at Rome till the king has granted him his temporalities, the spiritual power of the archbishops will depend on the temporal power

<sup>1</sup> Cf. p. 169, n. 1 above.

<sup>2</sup> *L. and P.* v, no. 287, p. 137, Chapuys reporting Catharine's complaint against Warham's timidity, letter to Charles V, 6 June 1531. Cf. Harpsfield, p. 165, Roper, p. xxxix, how when More's name was withdrawn from the bill indicting the Nun of Canterbury, he said to his daughter "*Quod differtur non aufertur*", and when Norfolk warned him to be careful in future because *Indignatio, principis mors est* he said, "Is that all, my Lord? then in good faith is there no more difference between your grace and me but that I shall die to-day, and you to-morrow".

<sup>3</sup> On 24 Feb. 1531 he had drawn up by three notaries before four witnesses a protest against all parliamentary enactments in derogation of Rome's authority or Canterbury's prerogative, Wilkins, III, p. 746, Burnet, VI, p. 54: Lingard (1636) contrasts this protest with Cranmer's, VI, p. 193, on the ground that "Warham proclaims his non participation in the acts of others; Cranmer his resolution not to be bound by his own deed".

<sup>4</sup> Cf. A. F. Pollard, *Henry VIII*, p. 269, *Temporalities* were material, *spiritualities* functional, sources of income. This use of *spiritual* was one cause of confusion.

<sup>5</sup> *L. and P.* v, no. 1247, probably drafted near the end of his life (23 Aug. 1532) as a speech for delivery in the house of lords.

of the prince, and thus would be of little or no effect;—which is against God's law:

and more in the same strain, as that

A man is not made bishop by consecration, but is pronounced so at Rome in consistory; and he has no jurisdiction given him by consecration, but only the rights of his order, viz., consecrating of children, &c. If the king by detaining temporalities could cause consecrations to be deferred, the church might have no bishops at all, and consequently no priests, and sacraments would cease. . . . Apart from law, a spiritual man ought first to seek what is necessary for his spiritual functions, and not temporal things; and give his oath of obedience to the pope before the temporal prince. In consecrating the bishop of St Asaph, Warham was but the pope's commissary, and the act was the pope's act. Warham only did what he was bound by oath to do.

Henry was to remember St Thomas, and how the liberties of the church were guaranteed by Magna Carta, and how kings who violated them came to an ill end: and the lords should remember how the knights who drew sword against St Thomas were punished, and their punishment remained to this day in their blood and generation. Warham would not refuse lay counsel, though they were likely to advance their own laws against those of the church and (as recent experience showed) to advise confession of premunire, and though he understood "that temporal men defending their clients, when they have spoken anything against the minds of the king's council, have been called fools and put to silence. . .". Finally, he refused to give surety: "And whoever lays violent hands on a bishop and imprisons him is accursed, and can only be assailed by the pope, except *in mortis articulo*; and the place where a bishop taken is kept is interdicted, and the two dioceses next adjoining".

Gregory VII himself could hardly have put it more strongly. Whether Henry's objects really were, as Chapuys thought,<sup>1</sup> merely "to force the pope to do his will, or, in default of this, to prevent the English Church from opposing his marriage", or whether, now that his attention had been turned that way, he desired, with whatever

<sup>1</sup> *L. and P.* v, no. 1058, 31 May 1532.

admixture of self-interest, to solve the great problem of jurisdiction and obedience,<sup>1</sup> in either case the sort of argumentation which Warham was here employing was precisely that which Henry was least likely to tolerate. Fortunately for both parties, they were spared the trial. The archbishop did not live to see parliament again, but died on 23 August 1532, so that he never found out whether he had the courage to speak what he had written; and the king could have a new primate; he was in no doubt about the man for the office and must see that there was no doubt about the office being the whole, authentic, properly derived office; Cranmer was to be archbishop of Canterbury, and his archbishopric must be as complete and unchallengeable as that of any of his predecessors.

As the approach of the irreparable breach with pope and emperor made it more urgent that Canterbury should be amenable and irreproachable, so also it doubled the necessity of the French alliance. Negotiations for a meeting between Henry and Francis began in January 1532, and were concluded in June, and the meeting<sup>2</sup> took place in France towards the end of October: it produced a treaty of alliance against the Turks, not very seriously intended, and a promise from the French king to use his influence with the pope in Henry's interests. It was partly in preparation for this royal interview that on September 1 Anne had been created marquess of Pembroke, with remainder to her heirs and an annuity of a thousand pounds.<sup>3</sup>

About Cranmer's character there is almost nothing that can be said without dispute. Up to this time he had been noted chiefly, almost solely, for his championship of the king's cause against Catharine, and was indeed at Mantua<sup>4</sup> on that business when, in November, he received the summons to Canterbury. At almost exactly the same time Clement VII was signing a brief warning Henry, "on pain of excommunication to take Catharine back as his queen, and reject Anne,

<sup>1</sup> Cf. p. 137 above.

<sup>2</sup> For all this cf. P. Friedmann, *Anne Boleyn*, pp. 162 ff.

<sup>3</sup> *L. and P.* v, nos. 1274, 1370. *Marquess* perhaps by way of marking that the dignity was in her own right, but *L.J.* 1, p. 196, called Lady Dorset "my lady Marquess".

<sup>4</sup> Where the emperor was: *L. and P.* v, no. 1551 (Nov. 18), Charles V's acknowledgment of Cranmer's recall, and commendation of his diligence.

within one month from the presentation of this letter, until the papal sentence be given".<sup>1</sup>

Cranmer obeyed the summons very unwillingly. Having sent his wife,<sup>2</sup> secretly, before him, he himself proceeded so deliberately as to arrive only in January 1533. The king, far from the usual practice of exploiting an episcopal vacancy, lent him money for his initial expenses.<sup>3</sup> Towards the end of January the curia was asked for the bulls for Cranmer's promotion: its purpose hardly admitted of doubt, and it was made still less welcome at Rome by the payment of a very small sum in lieu of annates: but whether the Roman court was moved by the threatening character of the Act of Annates, or by the bribery of cardinals, or by the ostentatious friendship of the French and English kings,<sup>4</sup> or whatever were its motives, between February 21 and March 2 there were issued the eleven bulls necessary to make Cranmer's archbishopric as indubitable as Rome could make it,<sup>5</sup> and on March 13 he was consecrated.

But the consecration was not without difficulty. How was he to take the oath of fidelity and obedience to the pope, with its promise of

<sup>1</sup> *L. and P.* v, no. 1545: cf. p. 210 below. Cf. also *L. and P.* v, no. 1633, Chapuys to Charles V, 15 Dec. 1532, how he was taken to Norfolk's room, where the privy council and others were met, and how he thought Henry "feared the presentation of some executorial brief, and wished to show the Pope that his Council is more determined than himself".

<sup>2</sup> His second wife, a niece of the Lutheran Osiander.

<sup>3</sup> *L. and P.* vi, no. 89, Jan. 27, p. 35, Chapuys writing in great surprise: "It is suspected that the object of this haste is, that the archbishop, as legate of the kingdom, may authorise the new marriage in this parliament, judging this divorce necessary".

<sup>4</sup> Cf. *L. and P.* v, no. 1541, 13 Nov. 1532, where Francis instructs his ambassadors in Rome: "They shall also say that the two kings are so closely united that the interests of both are the same, and if the pope provokes them into undertaking anything against him, great damage may ensue. Once they had intended to do so, but have decided to request reparation first; and in case of delay, which will be taken for refusal, they will demand a General Council in eight months, or, if that cannot be done, in three months after that. If the pope will not, they will hold the council themselves. All princes and kings will adhere to them, and especially the princes of Germany, Lutherans, and others. The king's subjects will be forbidden to send money to Rome directly or indirectly. If the pope uses censures, and the king is forced to go to Rome for absolution, he will go so well accompanied that the pope will be very glad to grant it".

<sup>5</sup> N. Pocock's *Burnet*, I, p. 215.

support for the Roman papacy and the regalia of St Peter?<sup>1</sup> Might not such an oath expose the taker to a charge of premunire? and might it not come rather awkwardly in the way of the purposes for which he was designed? The dilemma was one of great importance, and there was no escape from it. It was necessary that the new archbishop of Canterbury should be such in every sense and by every right to which the English Church was accustomed: that necessarily included, to put it at the lowest, some admixture of papal approval: on the other hand, papal approval was of course dependent on the expression of allegiance to Rome, and that was heavy baggage for a conscience of whose destiny not the least part nor the hardest to guess was defiance of Roman authority. There was no escape from the dilemma, but it might be a little wrapped up: Cranmer was by no means Lutheran enough to command his conscience *peccare fortiter*. And so before his consecration he surrendered the papal bulls to the king and he protested that in the meaning in which he took the papal oath it should not oblige him "to doing or attempting anything that shall be or shall seem to be against the law of God, or against our most illustrious king of England, or the state of his kingdom of England, or the laws and prerogatives of the same", with more reservations still, including *Reformationem religionis Christianae, Gubernationem Ecclesiae Anglicanae*.<sup>2</sup> There has been some discussion whether this protest was public;<sup>3</sup> it does not seem to matter very much. As Collier says, "this protest was not made at Rome to the pope: Cranmer's proxies<sup>4</sup> had

<sup>1</sup> J. Strype's *Memorials of Thomas Cranmer*, no. 6, II, p. 684.

<sup>2</sup> Strype, no. 5, II, p. 683.

<sup>3</sup> According to Hy. Jenkyns, *Remains of Thomas Cranmer*, IV, p. 91, Cranmer made the protestation first in the chapter-house of St Stephen's, before Watkins the proto-notary and three others; secondly at the altar, before consecration, just before he took the first oath to the pope; at the same place, at the delivery of the pallium, just before taking the second oath to the pope. Lingard, v, p. 7, sees no evidence that on the later occasions the protest was heard by any one who did not hear it on the first: but Strype's *Cranmer*, I, p. 27, makes it appear that the three consecrating bishops heard. The Archbishop's Register has "*palam publice, et expresse protestor*", H. J. Todd, *Vindication of Cranmer* (1826), p. 44: cf. p. 45, Stephen Gardiner's repudiation of his oath to the pope on the ground that an engagement contrary to right is not binding: and cf. Lingard's and Todd's pamphlets and counter-pamphlets. Cf. p. 505 below.

<sup>4</sup> Cf. Lingard, v, p. 7.

no such instructions... Had this reserve been insisted on in the conclave, we have reason to believe the bulls would never have been granted". The Roman curia cannot have been unaware that there was an important reservation although it was not insisted on in the conclave.<sup>1</sup> It may be right to conclude, like Collier, that "with due regard to Cranmer's memory, it must be said there was something of human infirmity in this management":<sup>2</sup> but Cranmer's was not the only infirmity.<sup>3</sup>

The new archbishop took his oath to the king<sup>4</sup> after the papal oath, reversing the usual order: by the later oath he renounced anything in the bulls that might be hurtful to the royal dignity and estate, and took his archbishopric "immediately and only" of the king and none other. For his manner of dealing with the two conflicting oaths Cranmer had the best technical advice he could get,<sup>5</sup> and (he believed) the laws of the realm,<sup>6</sup> and it never seems to have troubled his conscience,<sup>7</sup> for at

<sup>1</sup> Cf. A. F. Pollard, *Cranmer*, pp. 54, 55, on Clement VII knowing why the bulls for Cranmer were wanted, and being anxious the Annates Act should not be enforced by the royal withholding of first-fruits, and being warned against Cranmer by Chapuys. Cf. p. 173 above, Henry to decide whether the Act of Annates was to be enforced or not.

<sup>2</sup> Jeremy Collier, *Eccl. Hist.* (ed. 1714), II, p. 74 (ed. 1840, F. Barham), IV, p. 211.

<sup>3</sup> Nor was the age unfamiliar with divided loyalties and clashing promises of not easily commensurable obligatoriness: "The French king told me [Gardiner] once [in 1537, *L. and P.* XII (1), nos. 939, 1032], when I had commission to exhort him to do as he was bound to do by his treaty, and added that it was honourable to do as I required him, that is to say, to deliver the traitor Pole, and not to regard the safe-conduct which he said he had granted, which he might not grant by his treaty—to stop my mouth he said I could not skill of princes' honours", Muller's *Letters of Gardiner*, p. 180, 7 Nov. 1545: *ibid.* 196, Nov. 13, "And albeit in pactions and covenants there should be articles devised to the contrary, yet if such a Counsayl came to pass, it were to be feared they would, by a *non obstante*, take that remedy away, alleging that no princes may particularly and apart so bind themselves as by a General Council may not be considered and reformed".

<sup>4</sup> Strype, II, no. 7.

<sup>5</sup> Hy. Jenkyns, IV, p. 91, account of his examination before Brokes in 1555: cf. J. E. Cox, *Cranmer's Works*, II, pp. 212 ff. Jenkyns, IV, p. 115, Cranmer's story that he was unwilling to take the archbishopric, his conscience revolting against any acknowledgment of the papacy, and how Henry got civil lawyers to persuade him his conscience might be satisfied with protestation.

<sup>6</sup> Jenkyns, IV, p. 104.

<sup>7</sup> Cf. his objection to the witnesses against him as perjured by defence of the pope whom before they forswore, Jenkyns, IV, p. 109.

his trial in 1555 it was he who brought up the subject—"for I have made an oath to the King, and I must obey the King by God's laws. . . .<sup>1</sup> Now I have declared why I cannot with my conscience obey the Pope".<sup>2</sup> He agreed that he ought not to keep an oath, if he had made one, to a harlot to live with her,<sup>3</sup> but this argument could not wring the withers of a man for whom the pope was demonstrably antichrist.<sup>4</sup>

The apportionment of moral praise and blame is always a pleasure, but it is an indulgence which is apt to debauch the constitutional historian because it may, disinheriting his professional information, authorise his private prejudices to explain how things happened by insinuating the tendency of events instead of by setting out their order. Nevertheless, all history is history of morals, and most especially where the allocation of the highest human authority is affected by personal considerations does it become impossible to disregard the moral conduct of individuals. So here, Cranmer's obliquity cannot be overlooked, but before it can be certain whether that obliquity is evidence tending to condemn the great transactions of which Cranmer was an essential part, it must first be decided whether Christendom had not received a twist from which there was no straightforward way of emerging. If Roman ratification had once been useful and therefore respectable and had remained, to most English minds, necessary (while its basis shifted from service to pretension); and if Roman overlordship was or had become, in the right judgment of those whose responsibilities gave them a right to judge, illegitimate and maleficent, then it might appear that the least evil course was to use the ratification for the annihilating of the overlordship. But it is perfectly possible to deny either or both of these *ifs*, or to assert that any course not plainly and absolutely straightforward is always and indubitably damned.

There is another argument for the defence, or at least another way of putting the argument; that is to say that the Middle Ages had no way of distinguishing between law and morality, that the development of the papacy was both a great instance and a great cause of this lack, and so were the peculiar relations between church and state, or rather

<sup>1</sup> Jenkyns, iv, p. 83.

<sup>3</sup> P. 90.

<sup>2</sup> P. 86.

<sup>4</sup> P. 87, 112.



between the various officers of a church and state which in idea were essentially identical and in practice inevitably competitive; that the great achievement of the sixteenth century was the facilitating of distinctions between allegiance and conscience, church and state, law and morality, and that while no one could come to power without expressing (hardly without more or less feeling) devotion to the old unity (or confusion), yet the best men, in power, might feel that an overwhelming balance of rightness was on the side of the new definition.<sup>1</sup> After all, an archbishop of Canterbury could not be expected to admit obligations to the pope to the detriment of the law of God,<sup>2</sup> and if it were once conceived that these authorities might be in contradiction, who would deny that the pope's laws and the king's might also conflict, and that in such a case it might be the king's laws that stood with the law of God?

Henry had not waited for his new archbishop to solemnise his new marriage: on 25 January 1533<sup>3</sup> he was formally but secretly married to Anne Boleyn. Negotiations were still going on with the papal nuncio for some trial of the king's suit by papal authority though not at Rome,

<sup>1</sup> And the worst, no doubt, an overwhelming balance of profit.

<sup>2</sup> Without which any oath was of course void. Cf. p. 197 above. And Henry was well aware of the importance of the maxim *hereticis non est observanda fides*, *L. and P.* v, no. 337, Henry writing 14 July 1531 to Brian and Foxe on embassy. Cf. the similar difficulty about oaths raised when dynasties are competing for jurisdiction, York's argument in 1460 *R.P.* v, p. 377, "every man under the pain of everlasting damnation is bound to obey the law and commandments of God... of this bond and duty of obedience to God's law no man may discharge himself by own deed or act promise or oath... it followeth that man should have rather consideration to truth right and justice in this matter [of York's claim] accordingly with the will of the law of God than to any promise or oath", especially as church law holds that an oath "contrary to truth justice and charity, in which standeth the plenitude and perfection of God's law, is void... and that the virtue and nature of an oath is to confirm truth", and that oaths of fealty, etc. bind to nothing unlawful; cf. also, p. 505 below.

<sup>3</sup> On or about then: see Friedmann, I, p. 183. It had been a long wait: cf. *Harl. Misc.* (1809), III, letters from Henry to Anne, May 1528 to May 1529, esp. p. 54 (probably August), "a whole year struck with the dart of love"; p. 56, "I trust, within a while after, to enjoy that which I have so longed for, to God's pleasure and our both comforts": p. 59, how Anne's candidate for abbess of Wilton had had at least three lovers, "Wherefore, I would not for all the gold in the world clog your conscience nor mine, to make her ruler": "shortly we shall have our desired end... with God's grace".

but they were hardly more than the merest sham.<sup>1</sup> Anne more and more took Catharine's place,<sup>2</sup> and for the first time, "on Easter Eve,<sup>3</sup> she went to her closet openly as queen, with all solemnity, and then the king appointed the day of her coronation, to be kept on Whit Sunday". Anne had few friends enough, and this promotion because of a pregnancy which could no longer be hid, though it may have purchased some flattery, was to the increase of envy and malice, and they were given weight by the next corollary of Anne's recognition:

writings were sent to all sheriffs to certify the names of men of forty pound, to receive the order of knighthood, or else to make a fine: the assessment of which fines was appointed to Thomas Cromwell, Master of the King's Jewel House, and counsailer to the king. . . and newly in his high favour, which so politicly handled the matter that he raised of that assessing of fines a great sum of money to the king's use: Also the king wrote letters to the city of London to prepare pageants against the same coronation.<sup>4</sup>

If the new queen was to be the true queen and her child the true heir, then the annulling of the old queen's marriage brooked no delay. The promotion of Cranmer was one step: another was the exclusion of Roman jurisdiction, and Henry had been busy to this end with his parliament, while at the same time careful to keep the nuncio in play and to keep the nerves of his subjects steady: it was with these motives, no doubt, that on his second visit to his reassembled parliament<sup>5</sup> he seated on the right of the throne the nuncio and on the left the French

<sup>1</sup> *L. and P.* vi, no. 142 (9 Feb. 1533). Chapuys begging the emperor to see the pope was not taken in, and especially to stop the bulls for the archbishop of Canterbury.

<sup>2</sup> Anne wore Catharine's jewels, and talked of her approaching marriage.

<sup>3</sup> 12 April 1533: the words are Hall's (II, p. 223). The next day (Easter Day) she was publicly prayed for as queen (*L. and P.* v, no. 351) where Chapuys also describes the murmuring, and the attempts to silence it. A few days later Catharine was forbidden to use the title of queen (as had already been enacted by parliament), and was cited to Dunstable: no. 391, Chapuys on Catharine's scruples against any way tending to war; but in his letter of 9 Feb. 1533 he had reported (vi, p. 64) Catharine as saying that if the pope gave sentence, "the king would not struggle against it, if only for fear of his subjects"; and had added that "the sentence could not come at a better time than now, when there is war with Scotland".

<sup>4</sup> Hall, II, p. 223.

<sup>5</sup> Parliament had reassembled on Feb. 4: *L. and P.* vi, no. 142. The king's visit was on the 8th.

ambassador, and two days later he took them with him to the house of commons.<sup>1</sup> At that time Anne had been talking of her marriage as certain to take place shortly, and her father had been saying that the king meant to be less scrupulous about completing the marriage, "which being once done by the authority of parliament, they could pacify objectors more easily than now".<sup>2</sup>

Of the sixteen chapters of this session's acts eleven were purely economic, one amended procedure for the advantage of the king and one for that of honest men forcibly resisting crime, one was of purely private interest, and one was for the Restraint of Appeals.<sup>3</sup>

Where by divers sundry old authentic histories and chronicles it is manifestly declared and expressed that this realm of England is an empire,<sup>4</sup> and so hath been accepted in the world, governed by one supreme head and king, having the dignity and royal estate of the imperial crown of the same, unto whom a body politic, compact of all sorts and degrees of people, divided in terms and by names of spirituality and temporality, be bounden and ought to bear, next to God, a natural and humble obedience: he being also institute and furnished, by the goodness and sufferance of Almighty God, with plenary whole and entire power pre-eminence authority prerogative and jurisdiction to render and yield justice and final determination to all manner of folk . . . in all causes . . . without restraint or provocation to any foreign princes or potentates:

the body spiritual of his kingdom (i.e. the English Church) having power to declare, interpret and show "any cause of the law divine or of spiritual learning", and "without the intermeddling of any exterior person or persons to declare and determine all such doubts and to administer all such offices and duties"; for which purposes they had been by kings and nobles sufficiently endowed with honour and possessions: and the Laws Temporal, for trial of property of Lands and Goods and for the conservation of the people of this Realm in unity and peace

<sup>1</sup> *L. and P.* vi, no. 160.

<sup>2</sup> *L. and P.* v, no. 160.

<sup>3</sup> 24 H. VIII c. 12; *S.R.* III, p. 427; Gee and Hardy, p. 187.

<sup>4</sup> The Tudors had good reason to think so: in the January parliament of 1397 Richard II as "emperor of the realm" legitimated the children of John of Gaunt and Catharine Swynford, and conferred on the eldest, John Beaufort, the earldom of Somerset: cf. Tout, IV, p. 20.

without ravine or spoil, was and yet is administered adjudged and executed by sundry Judges and Administers of the other part of the said body politic, called the Temporalty; and both their authorities and jurisdictions do conjoin together in the due administration of Justice the one to help the other.

And whereas Edward I, Edward III, Richard II, Henry IV, and other kings had made statutes to prevent encroachments, and yet inconveniences had arisen "by reason of appeals sued out of this realm to the see of Rome, in causes testamentary, causes of matrimony and divorces, right of tithes oblations and obventions".

Therefore does the king's highness

by his royal assent and by the assent of the lords spiritual and temporal and the commons, in this present parliament assembled, and by authority of the same, enact establish and ordain that all such causes (the knowledge whereof by the goodness of princes of this realm, and by the laws and customs of the same, appertaineth to the spiritual jurisdiction of this realm) already commenced. . . shall be from henceforth. . . definitely adjudged and determined within the king's jurisdiction and authority,

in the courts, spiritual and temporal, appropriate to the various cases: and the validity of such judgments should not be affected by any excommunication, interdict or other censure, nor should the celebration of service and administration of the sacraments (on pain of fine and imprisonment for the defaulters): and any attempt to make use of any foreign process should involve the penalties of premunire: and "in such cases where heretofore any of the king's subjects have used to pursue provoke or procure any appeal to the see of Rome, and in all other cases of appeals, . . . they may and shall from henceforth take have and use their appeals within this realm and not elsewhere"; the last resort being the archbishop in the ordinary way but in cases touching the king the Upper House of Convocation.

This statute has been set out at such length partly because in constitutional history it is the most important of the sixteenth century, if not of any century, and partly because the quality of its importance is implicit in the tone of its expression. It accepted indeed in its argumentation, though by its results it was to destroy, the medieval orthodoxy

of the one body politic, spiritual and temporal, of spiritual laws which were to be interpreted by the clergy and laws temporal whose scope was hardly more than to prevent theft, fraud, and violence; nor did it deny that appeals to Rome had been customary, in causes testamentary and matrimonial. But in the age-long controversy between *regnum* and *sacerdotium*, the cardinal controversy about the way in which society was or should be constituted, a king gave the decision, as kings had done often before, but this time the decision stood and worked and was decisive. And it was a decision which robbed Rome of all jurisdiction: the frontier was not pushed back, it was wiped out, as if it had never existed really, never been part of an universal dispensation but only of a pretension which was local and secular. Nor did Canterbury gain what Rome lost: its jurisdiction came to it from the goodness of the princes of this realm and from the laws and customs of the same: no doubt it had something also that was not jurisdiction and that took no heed of political geography, but jurisdiction at any rate and whatever that might imply depended on the goodness of the prince and the laws of his realm. Meanwhile that goodness was shifting its reference and the laws were visibly altering their nature. This particular law was purporting to *make* nothing, only to establish what had once been, what should always have been, and what alone properly was. But where two such great potentates, the two arms on earth of Omnipotence, *rex* and *pontifex*, disagreed, had disagreed for so long, where so much had been said and done and written on both sides, if one party with the sole help of his own great council could award all to himself and nothing to his adversary, and if the award stood, then what was there that he and that council could not do? would it ever again be clear that *how society was constituted* and *how society should be constituted* were identical phrases, that society was not constituted unless it was as it should be constituted, that otherwise it was only a great brigandage? might not the constitution of society depend on the will of king and parliament, instead of the will of king and parliament being merely sin when it was not the organ of a God-given constitution of society? The first Act of Appeals held hid within it a whole catechism of questions like these, and of answers to them: and hardly hid, for the opponents of

the measure were uneasily conscious that something of the sort was latent within it, and its principal promoter knew well enough what he was at: Thomas Cromwell was an ardent disciple of Machiavelli,<sup>1</sup> and to him the State was force, mere force but supreme force, Law was will, was what the controller of the State commanded under penalty. This was a view capable (it may be argued) of actually increasing the moral content of the universe, by precipitating the individual, singular in the possession of a soul, by substituting for a society which claimed to be a spiritual entity a society which contained all the more of spirit because its components were fully and autonomously moral; and by leaving the church, the truly spiritual society, with no means of action that were not spiritual: but these were not the possibilities which allured Cromwell.

The Act of Appeals does not seem to have been passed without a good deal of opposition. Many people found it "very strange. Nevertheless, every one thinks it will go further; for the king is entirely set upon it, and has arranged all his policy to this end". In the very letter<sup>2</sup> in which Chapuys made this report, he reported also Henry's recriminations against the vanity and ambition of the pope, and his resolve

to remedy it, and repair the error of kings Henry II and John . . . and to reunite to the crown the goods which churchmen held of it, which his predecessors could not alienate to his prejudice,<sup>3</sup> and that he was bound to do this by the oath he had taken at his coronation. I let him talk on without contradiction, in order to have an opportunity of recommending the General Council, without which the things he talked of could not well be done; but I could not get him to relish the said Council.

Henry was to show pretty soon that he could get the things he talked of done well enough without any general council, and also that he was

<sup>1</sup> Cf. R. B. Merriman, *Thomas Cromwell*, 1, pp. 86, 92 and Foxe (ed. Townsend), vi, p. 46 (this reference comes from A. F. Pollard, *Henry VIII*, p. 323); and A. F. Pollard, *Henry VIII*, p. 329, for Cromwell's patronage of Marsiglio's *Defensor Pacis*; which insisted on the magistrate's exclusive right to coercive jurisdiction, and which was translated into English in 1535: the *Prince* was written in 1513, and no doubt more or less circulated in manuscript before it was printed in 1532.

<sup>2</sup> *L. and P.* vi, no. 235, 15 Mar. 1533.

<sup>3</sup> Cf. p. 146 above, Wolsey surrendering York Place.

quite as willing as the emperor to invoke one, and very much more willing than the pope. But after all what was the need of councils? "as if a parliament would err in a manifest truth."<sup>1</sup> Parliament wanted keeping straight, certainly, talked of schism, and the loss to the wool trade, and rebellion,<sup>2</sup> but it could be kept straight and business could be got through it, and this business of the Boleyn marriage was of a maddening urgency. There might be reflections on parliament's competence, indeed, but they would be reflections not easily projected into England nor substantiated against the English government. Chapuys might think<sup>3</sup> every one here so frightened and angry that civil war was certain, and "think it can hardly displease you to make an enterprise against this kingdom... The attempt would be easy; for they have no horse, nor men to lead them, nor have they the heart of the people, which is entirely in favour of you, the queen and the good princess" (this English passion for Charles and his aunt was a frequent theme with Chapuys, and usually without the reservation he made on this occasion—"I may say not of the mean, but of the higher, classes"): but even Chapuys had to admit that the Most Christian King might "do something new",<sup>4</sup> and found it difficult to bear with Henry's talk about the riches and power of France, and about the great improvement in

<sup>1</sup> Hawkins, one of Henry's agents with the pope, writing to the king on March 6: *L. and P.* vi, no. 206.

<sup>2</sup> *L. and P.* vi, no. 296. Chapuys' dispatch of March 31. For the unwillingness of parliament see also *L. and P.* vi, no. 454 (the imperial ambassador in Rome reporting what the papal nuncio in England reported) and *L. and P.* vol. xii, pt. II, no. 952, Sir Geo. Throgmorton, in 1537, reporting to Henry a conversation of four and a half years earlier, when "Dyngley wondered that the Act of Appeals should pass so lightly, and Throgmorton said it was no wonder, as few would displease my Lord Privy Seal", Cromwell. Also vi, no. 160 (Feb. 15), Rutland on the limits of parliamentary competence, Chapuys on the three bishops excused from parliament, and on the king's control of elections. For Throgmorton (Throckmorton, Frogmorton, etc.) cf. below, pp. 431, 435.

<sup>3</sup> See his dispatch of April 10, *L. and P.* vi, no. 324; he said that some M.P.s, led by a city member, suggested a grant of £200,000 on condition that "the affair of the Queen and of the Pope" were remitted to a General Council: but Henry was resolved to marry and crown Anne immediately after Easter, had told Catharine she must give up the title of queen, had imprisoned Fisher: "It seems to me he is doing all he can to disgust his people. You cannot imagine the fear into which all these people have fallen. It will be right that the Pope should call in the secular arm, and the Scots may be secretly supported".

<sup>4</sup> *L. and P.* vi, no. 324, p. 151; the Most Christian King was Francis.

Frenchmen, who were really getting so athletic you might almost take them for Englishmen.<sup>1</sup> Henry was confident that "whilst England is united, it is not conquerable by any foreign prince".<sup>2</sup> The emperor "had no right to interfere with his laws, and, whatever might be said of them, he would pass such laws in his kingdom as he liked",<sup>3</sup> and laws they would be, whether retrospective or not, whether or not affecting a queen whose nephew was an emperor: and anyway, the emperor himself had set the example of appealing from pope to council, and the emperor's subjects wanted to buy wool quite as much as his wanted to sell it.<sup>4</sup> A little later Norfolk reminded the imperial envoy of another consideration—whether or no England was an empire, at any rate she was an island, and Charles could not fly here, and even if he got here, he would find people who needed some talking to, "very difficult to subdue or even to injure".<sup>5</sup>

So it may be that parliament did not much like the Act of Appeals, but anyway they did not dislike it, as they had the Bill of Uses,<sup>6</sup> enough to reject it. And public sentiment might prefer Catharine to Anne<sup>7</sup>

<sup>1</sup> *L. and P.* VI, no. 235 (March 15), p. 109.

<sup>2</sup> Cf. Chapuys' dispatch of 16 April, *L. and P.* VI, no. 351, esp. p. 168, "The King is very watchful of the countenance of the people", and this dispatch, like no. 324, reminds the emperor of the commercial weapon, of the threat of forbidding intercourse. VII, no. 83, pointed out the profit in seizing English ships by virtue of the pope's executoriales; and on 17 Jan. 1534, VII, no. 83, Henry "feared neither the emperor nor any other if the marquis and other vassals were loyal, as he thought they would be". He had also "great hope in the Queen's death".

<sup>3</sup> *L. and P.* VII, no. 351, pp. 165, 166.

<sup>4</sup> In the autumn of 1532, when the staple at Calais was closed, the Flemings had learnt thoroughly that they could not do without English wool: cf. *L. and P.* VI, nos. 1523, 1571. Charles V, about the middle of 1533, hoped that if the pope resorted to interdict it would be limited to one diocese, so as not to disturb intercourse with Spain and Flanders: *L. and P.* VI, no. 570, referred to by A. F. Pollard, *Henry VIII*, p. 309.

<sup>5</sup> *L. and P.* VI, no. 556, May 29.

<sup>6</sup> Cf. pp. 131, 172 above.

<sup>7</sup> Harpsfield, p. 214, wrote at the end of his *Life*, "because the Protestants think it great folly for him [More] that he stood in the matter [of the divorce], and that scripture could not bear him therein, and many of the Catholics doubt, for lack of knowledge of the whole matter, and being somewhat abused with English books made for the defence of the new marriage, have not so good and worthy estimation of his doings therein as they have for his doings touching the Pope's supremacy. . . ." Prof. Chambers comments, "This expression of opinion is surprising; it hardly harmonizes with that held by modern historians: that the average Englishman was



and Charles to Francis, but Henry estimated these preferences very justly and was not frightened of them. And the whole affair might cause diplomatic weakness and complication, but not more, as Henry rightly calculated, than he could manage. Accordingly, the English government was prepared to put its view of its exclusive jurisdiction quite clearly and openly, and then that view was bound to make authority, unless Chapuys were right and force could defeat it. He thought it worth while, indeed,<sup>1</sup> to make a protest in the emperor's name, "and present letters apostolic", in defence of Catharine's rights: the king sent answer, by Cromwell, that the privilege of ambassadors "did not justify them in violating the rights of the crown and kingdom", with many gentle and gracious words, and an invitation to confer with the council.

The conference took place on 7 May 1533:<sup>2</sup> it began with a speech from Wiltshire, then the ambassador made a long discourse ("in Latin, as they did not all understand French"), and then Dr Foxe rose, and made a long answer,

to the effect that the king by his great learning, moved by the Divine Spirit, had found that he could not keep the queen as his wife, and like a Catholic prince, he had separated from her, and that there was no occasion to discuss the matter further; and as to disputing the jurisdiction of the archbishop of Canterbury, it would be against the laws,

*opposed to the Pope's interference in England, but sympathized with the blameless and injured Catherine".* But Harpsfield was writing twenty-three years after the event, after the disastrous reign of Catharine's daughter and on the threshold of the reign of Anne Boleyn's daughter, when Protestant and Catholic were pretty definitively established as technical terms, jointly comprehensive and mutually exclusive. Harpsfield is a very respectable controversialist, but what he wrote in 1558 about More's death in 1535 is not good evidence about the "average Englishmen" at the earlier date, or even the later.

<sup>1</sup> On May 5, cf. his dispatch of May 10, *L. and P.* vi, no. 465: he "understood" that Cranmer had "caused the said queen to be cited". Cf. no. 720, 28 June 1533, how the council sent for Chapuys and told him how considerate Henry was going to be to Catharine.

<sup>2</sup> *L. and P.* vi, no. 465: present "the chancellor, the earls of Wiltshire and Essex, lord Rochford, the treasurer, the controller, Cromwell, the two chief judges of England, Drs Foxe and Sampson, and others. The two dukes were not there. . .". Chapuys said that "the two judges were there only to make solemn prohibitions and conjure me not to transgress the said statute of which Wiltshire held a copy in his hand".

which neither the king nor the realm would tolerate, even under presentation of briefs or bulls from the pope, who, to speak frankly, had no authority here, or jurisdiction, either over temporality or spirituality....

Meanwhile convocation had done its share to alienate the pope,<sup>1</sup> had done even more than king and council and parliament: when it met on 26 March 1533 two questions were put to it—"whether it was against the law of God, and indispensable by the pope, for a man to marry his brother's wife, he being dead without issue, but having consummated the marriage? And whether prince Arthur had consummated his marriage with the queen?"<sup>2</sup> After some debate, answers satisfactory to the king were given to both questions, by large majorities.<sup>3</sup> "The good bishop of Rochester" alone "dared open his mouth to contradict", and a few days later he was arrested.<sup>4</sup> At about the same time Catharine was being told to cease calling herself queen, and all that style and title were being given to Anne.<sup>5</sup> Only one thing more was needed, formal judgment that Catharine never had been a wife. This was work for the archbishop of Canterbury, chief ecclesiast in England beyond dispute, and by English law highest ecclesiastical judge without appeal. Cranmer did not even wait to be consecrated. On April 11 he wrote to the king explaining that his grace's marriage had become matter of common dispute, to the peril of the succession and to the slandering of the clergy for not finding remedy, and since it was his duty, "by your and your progenitors' sufferance and grants... to direct order judge and determine causes spiritual, in this your grace's realm; and because I would be loth, and also it shall not become me (forasmuch as your grace is my prince and sovereign) to enterprise any part of my

<sup>1</sup> Who had written on 2 Jan. 1533 to Henry to say that now the Turks had been repulsed he had agreed with the emperor to call a council, and trusted to Henry's piety for cordial co-operation: N. Pocock, *Records of the Reformation* (1870), II, pp. 365, 366.

<sup>2</sup> Pocock's *Burnet*, I, p. 216.

<sup>3</sup> For the nature of the debate and of the majorities, cf. Friedmann, I, pp. 195 ff.: and *L. and P.* VI, no. 296, Chapuys on Dunelm. manfully opposing London in the York convocation. The York convocation followed the example of that of Canterbury. The decision is printed by Wilkins, III, p. 757, copying Rymer, *Foedera*, XIV, p. 454 (and p. 765-8 in Wilkins, the York decision).

<sup>4</sup> *L. and P.* VI, no. 324, he had been set at liberty only a short while before, at Cromwell's intercession.

<sup>5</sup> *L. and P.* VI, nos. 324, 351.

office, in the said weighty cause, touching your highness, without your grace's favour and licence", therefore he besought his majesty "to licence me, according to my office and duty, to process to the examination final determination and judgement in the said great cause".<sup>1</sup>

In reply to this Henry wrote that

albeit we, being your king and sovereign, do recognise no superior in earth but only God, and not being subject to the laws of any earthly creature; yet because ye be, under us, by God's calling and ours, the most principal minister of our spiritual jurisdiction within this our realm, who we think assuredly is so in the fear of God and love toward the observance of his laws, to the which laws we as a Christian king have always heretofore and shall ever most obediently submit ourselves, [we] will not therefore refuse (our pre-eminent power and authority to us and our successors in this behalf nevertheless saved) your humble request offer and towardness... Wherefore we inclining to your humble petition, by these our letters sealed with our seal and signed with our sign manual, do licence you to proceed in the said cause, and to the examination and final determination of the same; not doubting but that ye will have God and the justice of the said cause only before your eyes, and not to regard any earthly or worldly affection therein.<sup>2</sup>

For Catharine the obvious course (to which, moreover, she was advised by Chapuys)<sup>3</sup> was to avoid anything that could resemble an admission of Cranmer's competence: therefore, when on 8 May 1533 he set up his court at Dunstable and summoned her thither from Amptill, she had nothing better to do than to ignore the summons, and she was accordingly pronounced contumacious:<sup>4</sup> this, in the opinion of counsel, precluded her from further monition, but it was nevertheless thought well to keep from her the imminence of the definitive sentence, lest she should after all put in an appearance, whereby the process would be greatly "stayed and let".<sup>5</sup> At last, on May 23, sentence was given<sup>6</sup>

<sup>1</sup> *State Papers* (by royal command, 1830), Henry VIII, 1, p. 390, where also is printed the other version of this same letter. Cf. Lingard, v, App. A, who prints both and argues that the one from which my extract comes was the second draft, the first not having seemed to Henry sufficiently submissive.

<sup>2</sup> *State Papers*, 1, p. 392. My orthography in both these extracts.

<sup>3</sup> *L. and P.* vi, no. 391.

<sup>4</sup> *State Papers*, 1, p. 396 and *L. and P.* vi, no. 470.

<sup>5</sup> *L. and P.* vi, no. 496, Cranmer to Cromwell, 17 May 1533.

<sup>6</sup> With the concurrence of London, Winchester, Bath, Lincoln, and many divines and canonists: Pocock's *Burnet*, 1, p. 219.

"declaring it only to have been a marriage *de facto*, but not *de jure*, pronouncing it null from the beginning.<sup>1</sup> One thing is to be observed, that the archbishop in the sentence is called *the legate of the apostolic see*. Whether this went of course as one of his titles, or was put in to make the sentence firmer, the reader may judge". In the same letter in which Cranmer announced this result he desired "to know your pleasure concerning the second matrimony as soon as you and your counsaill are perfectly resolved therein, for the time of the coronation is so near at hand that the matter requires good expedition".<sup>2</sup> On 28 May 1533 the archbishop pronounced the marriage between Henry and Anne valid,<sup>3</sup> and on June 1 the new queen was crowned.

The emperor was busy writing to other monarchs about the injury done to the queen and the princess, but with "little hope of bringing Henry to reason, considering the delays and subterfuges used by him and the pope".<sup>4</sup> Henry likewise sent to foreign courts to justify his proceedings, and withdrew his ambassador from Rome, and on July 9 he confirmed by letters patent the act restraining annates.<sup>5</sup> At about the same time Cranmer and the bishops who had acted with him at Dunstable were excommunicated.<sup>6</sup> On July 11 the "divorce" from Catharine and the marriage with Anne were pronounced invalid, and Henry was placed under the greater excommunication, though the declaration of it was suspended until the end of September.<sup>7</sup> On

<sup>1</sup> But not thereby necessarily bastardising Mary, who might profit from the ignorance of their sin in which her parents begot her. Cf. p. 182 above.

<sup>2</sup> *L. and P.* vi, no. 528: *S.P.* i, p. 396 prints *same matrimony* instead of *second matrimony*.

<sup>3</sup> Rymer, *Foedera*, xiv, p. 467.

<sup>4</sup> *L. and P.* vi, no. 523, 23 May 1533.

<sup>5</sup> *S.R.* iii, p. 387.

<sup>6</sup> Pocock, *Records*, ii, p. cccxlv.

<sup>7</sup> *L. and P.* vi, no. 807 and App. no. 3: it was not given in writing till the beginning of Aug. (no. 940): later it was suspended for another month (no. 1325). Cf. pp. 230 below, 204 above. Early in August Chapuys was urging Cromwell "to persuade the King to return to the right path, which he could do with more credit and authority than any man, as he was now of the King's Council, and was not at the time when this cursed affair was invented", vi, no. 975, 13 Aug. 1533: Chapuys might attend the English council, as once (reported 15 Sept. 1533, no. 1125) when he and they talked about the Spanish ship plundered by Lubeck, and he had to explain to them the old Spanish custom by which every gentleman can denounce war against any other: and Norfolk might attend the French council, as he did (reported 27 Sept. 1533, no. 1164) when they were writing to the emperor about the decapitation of Capt. Merveilles.

September 7 Anne's child was born, a daughter, who was christened Elizabeth. In November Gardiner and Bonner represented Henry at Marseilles, where Francis and Clement were consulting together, and there Henry's appeal, and Cranmer's, to the next general council<sup>1</sup> were put in, much to the annoyance of Francis: "Ye require, quod he, a general council, and that the emperor desireth, and I go about to bring the pope from the emperor, and you to drive him to him. And can my brother call a council alone? quoth he. Ye have clearly marred all".<sup>2</sup> On November 19 and 20 the sentence against Henry was published at Dunkirk and Bruges.<sup>3</sup> In December the king's council was devising "with the bishops for the preaching of the superiority of the general council over all bishops, and that the pope has no more jurisdiction here than any other foreign bishop, and that his previous authority here was usurped by the sufferance of princes": bishops, provincials, and heads of religious houses were to see that this doctrine was taught everywhere:

proclamations containing the whole act of appeals [were] to be made throughout the realm, and the act to be printed and set up on every

<sup>1</sup> Cf. *L. and P.* vi, no. 1487, memoranda for the King's council, especially on the authority of a general council.

<sup>2</sup> *L. and P.* vi, no. 1427: see also nos. 1425 and 1426, and Lathbury's Collier, *Ecccl. Hist.* iv, p. 215.

<sup>3</sup> *L. and P.* vi, no. 1447. And cf. *L. and P.* Add. 1 (1), no. 881, Lisle's spy: "On the 18th Nov. [1533] the captain of Tournehan took his horses towards Lord Beores and was that night shown at Dunkirk the Pope's bulls under lead and informed that the sentence of excommunication, aggravation and re-aggravation against the King would be pronounced in 10 days. The Emperor's army is upon the sea to do the English all the annoyance they can". The Flemings seem not altogether to have liked this use of their country as a battery position for Clement's spiritual artillery (cf. vii, no. 185). Hall says that Wm. Lock, mercer, of London, took down the curse which was set up at Dunkirk. A bull for the execution of the excommunication was dated 30 Aug. 1535 (ix, no. 207): by this the pope gave licence and plenary power to "his dearest son in Christ Charles emperor of the Romans, always august, prince of the temporal sword and distributor of justice, and all other kings dukes counts and princes exercising temporal jurisdiction", to employ every aggression against persons and goods in order to bring back the king of England to the bosom of the Mother Church. At the beginning of 1536 a bull of deprivation was actually prepared and printed, but though the emperor's ambassador obtained "executorials" for it Catharine's death just before had deprived this threat of all reality, and prevented the publication of the bull (x, p. xv referring to nos. 82, 107, 229, 887). In December 1538 Paul III, strong in the alliance of both Charles and Frederick, reissued the 1535 bull of excommunication with additions (Burnet, iv, p. 318. Cf. A. F. Pollard, *Henry VIII*, p. 302, and p. 259 below).

church door. The king's provocation and appellations from the bishop of Rome to a general council must also be set up on the church doors, that, if any censures are fulminated, it may appear to all the world that they are of no effect, as the king both provoked and appealed before they were promulgated.

The loyalty of the grandees was to be mobilised, an eye to be kept on the Scots, a league concluded with Poland, Hungary, Saxony, Bavaria, Hesse, Mayence, Treves, Cologne and the Hansa, city magnates and nobles to be encouraged to discuss at table and to explain to their servants that the pope has no jurisdiction here, "a trusty person to be sent into Ireland to bring over the Irish rebels to the king's part. Justice and quiet to be maintained in Wales. The king's navy ordinances and munitions of war, bows guns etc., to be prepared and provided for".<sup>1</sup> The French alliance had become a necessity, and one that cost money by the remission of pensions.<sup>2</sup>

The controversy had become a trial of strength: the question of principle had been resolved; the wheel had come full circle, or at least, rather more than half circle, and with an increasing momentum—papal theory had gradually centralised in the papacy all ecclesiastical jurisdiction, even all jurisdiction, so that none not thence derived was legitimate:<sup>3</sup> now, following a pope's refusal to limit the plenitude of a predecessor's dispensing power, the process was begun which was to make all jurisdiction illegitimate, or at least dependent, if it *was* thence derived: this process was most complete, rapid, and undisguised in England. Papacy had shown what a strength it is to a society that it should contain but one single all-subduing authority; now royalty was to do as much, to the profit of all governments, and then—as government became evidently too great a matter to be left to governors and the modern world returned, with a difference, to the medieval theory of an indispensable consent—to the profit of all subjects too; and, it may well be argued, to the profit of popes above all, but hardly even now would popes so argue, and then many of Henry's subjects and some of his fellows were so far from recognising him as a benefactor

<sup>1</sup> *L. and P.* VI, no. 1487, Cromwell's memoranda for the council, end of 1533.

<sup>2</sup> Cf. Dietz, p. 107.

<sup>3</sup> Cf. pp. 110, 145 above.

that they wished to combine their forces against him as the destroyer of the constitution of Christendom.

If enough of them had wished it wholeheartedly enough, then the sovereign acts of Henry and his parliaments would have been deprived of their efficacy and the history of sovereignty would have been very different, and the history of the great disputes about it which for the next three centuries and more were so largely to occupy the thoughts and energies of the English and their political heirs. On this question—could effective resistance be organised?—turned the whole future history of English constitutional forms and ideas. We know that it was not organised, and are rather apt to assume that of course there was no chance of it: the history of the rest of the sixteenth century falls fatally out of perspective if it is not remembered that to contemporaries the chance seemed very considerable indeed.

Ambassadors are naturally optimistic, and almost proverbially likely to be mistaken about popular feeling in the countries where they sojourn, and Chapuys was always ardent for Catharine: but he was not altogether inventive nor deceived when he reported to Charles "the great desire of all this people that your majesty should send men", and how Richard III had been chased out by two or three thousand Frenchmen.<sup>1</sup> Charles was in communication with Ireland, from which much might be hoped,<sup>2</sup> and there was almost too great variety of other expedients—would it be better to marry Mary to some English grandee (Reginald Pole, for instance), or to get the Scots king to try a stroke for the English throne?<sup>3</sup> There were rebels in Wales.<sup>4</sup> Very useful officers of Henry's, and even some who had been conspicuous in supporting his suit against Catharine, were feeling a disinclination for his service,<sup>5</sup> and

<sup>1</sup> *L. and P.* vi, no. 608, 18 May 1533, referred to by A. F. Pollard, *Henry VIII*, p. 305. It is amusing to note that on Jan. 16 Pietro Aretino wrote to Henry that "all Italy rejoices at the king's success to the contempt of the pope's bishopric". It is true he hoped to receive some of Henry's bread, but then Chapuys was already receiving Charles's: vii, no. 81.

<sup>2</sup> *L. and P.* vi, nos. 815, 821, referred to *ibid.* vii, no. 121 (29 Jan. 1534).

<sup>3</sup> *L. and P.* vi, nos. 446 and 541, May 1533: vii, no. 114, 28 Jan. 1534, the chance of revenge by means of the Scots "if Y.M. were ever so little angry".

<sup>4</sup> *L. and P.* vi, no. 1523, 15 Dec. 1533.

<sup>5</sup> vii, no. 14, 3 Jan. 1534, Chapuys writing about Sir John Gage and Stokesley bishop of Lincoln.

Norfolk was not the only one who was anxious about the king's treatment of the pope.<sup>1</sup>

No one could tell what would happen: what did happen was that Charles and every one else at all qualified to realise the papal censures<sup>2</sup> never found time and energy to spare from other occupations, and that Henry proved always able to reinforce himself with a majority, or at least a prepotence, of his subjects. But these things were not certain in 1533, and the uncertainty made it all the more necessary to make sure of parliamentary co-operation,<sup>3</sup> and to stifle sedition wherever it raised its head,<sup>4</sup> especially where, as in connection with Elizabeth Barton, it was popular and aristocratic, home-bred and papalist, hierarchical and superstitious. It will be convenient first to glance at the preparations for parliament, for it was in parliament that the nun and her friends were dealt with.

It was unprecedented that one parliament should remain in existence so long: this novelty produced another, the necessity of providing for casual vacancies. Cromwell perceived with unique clarity how much could be done with parliament, and saw how to do it, and already had distinguished and entrenched himself as a parliamentary manager. In the autumn of 1531 among the instructions issued to him<sup>5</sup> by the king

<sup>1</sup> *L. and P.* vii, no. 296, 7 March 1534. Nor, on the other hand, was he the only one who in the end always thought best to toe the line.

<sup>2</sup> Cf. *L. and P.* vi, no. 531, 22 Oct. 1533, negotiations between Charles V and Clement VII, who had "prolonged for a month the term of three months given to" Henry; agreed that Henry must put away Anne, and submit to papal judgment, and renounce the alleged privileges of his kingdom, and the acts passed by his parliament.

<sup>3</sup> But remember that this did not by itself suffice to secure domestic concord, or even the payment of taxes, and note that in Dec. 1534 Chapuys wrote (*L. and P.* vii, no. 1554, p. 580) of the money-votes obtained by Cromwell: "he does not consider that by this means he alienates the hearts of the subjects, who are enraged and in despair, but they are so oppressed and cast down that without foreign assistance it is no use their complaining, and it will not be Cromwell's fault if they are not oppressed further, taking example of the Turk, who, he says, may well be called King and Prince, for the absolute authority he exercises over his subjects". Cf. below, p. 246, n. 5.

<sup>4</sup> And to make friends abroad: for Henry's efforts in this direction see *L. and P.* vii, pp. iii ff.

<sup>5</sup> Besides proceeding against members of convocation who had opposed the divorce. *L. and P.* v, no. 394; also no. 1548, among his Remembrances, "The Parliament book", Nov. 1532, vi, nos. 299, 1381, vii, no. 1043 more parliamentary projects.



"to be declared to the Council and undelayedly put into execution", one was for the preparation of parliamentary bills, on primer seisin and other subjects. He seems to have been the natural person to apply to for leave of absence from parliament, upper house or lower,<sup>1</sup> and certainly had something to do with the infinite clamours of the temporality in parliament against the spirituality,<sup>2</sup> though it will not do to say that he simply manufactured the debates, since Chapuys reported the clergy as urgent in parliament to retract their acknowledgment of the Supremacy<sup>3</sup> and was amazed at the boldness with which the commons spoke, not only against the councillors but in their presence also.<sup>4</sup> Cromwell certainly took a great and effective interest in the filling up of vacancies, naturally numerous in a parliament of such long continuance, made lists of them and of suitable candidates,<sup>5</sup> directed canvassing in constituencies,<sup>6</sup> and round the end of one parliament busied himself with listing suitable candidates for the next, noting Bedwin as a seat to be filled "at the king's pleasure", and no doubt remembering at the same time that "the sixteen Wiltshire boroughs provided a happy hunting-ground for legal carpet baggers".<sup>7</sup> It is significant that the full adoption of the by-election policy seems to have been just at the time when More was succeeded as chancellor by Cromwell's ally Audley, promoted from the speakership and succeeded in his turn by another lawyer, Humphrey Wingfield, the first burgess to preside over the house of commons.<sup>8</sup> Wingfield's appointment was an occasion for showing one of the advantages Cromwell had over almost all his successors in the management of parliament, for Henry came to the House<sup>9</sup> to accept the new speaker: a few days later, with the nuncio and the French ambassadors, he attended a debate in the commons

<sup>1</sup> *L. and P.* v, nos. 612, 621, 625, 699, 709, 734.

<sup>2</sup> Cf. v, no. 831, Norfolk to Benet 28 Feb. 1531: see also no. 832, for the king giving the nuncio the same explanation of the Annates Bill.

<sup>3</sup> v, no. 124.

<sup>4</sup> v, nos. 805, 171.

<sup>5</sup> *L. and P.* ix, no. 1077, explained by A. F. Pollard and dated autumn 1532, *Inst. Hist. Res. Bul.* ix, pp. 31 ff.: cf. also vi, no. 1382; vii, no. 56.

<sup>6</sup> *L. and P.* vi, no. 31, 9 Jan. 1533.

<sup>7</sup> A. F. Pollard, *Inst. Hist. Res. Bul.* ix, p. 40.

<sup>8</sup> Cf. A. F. Pollard, pp. 42, 36.

<sup>9</sup> Of Lords, as we should say, cf. *L. and P.* vi, no. 142.

about benefit of clergy.<sup>1</sup> No doubt unusual pains were being taken to get a house of commons agreeable to the king, and no doubt with much success. "Before proceeding against the pope, the queen, and the princess, and in order to obtain money, it is necessary to gain the chief members. The king and the lady are doing all they can, and the king has countermanded most of those who would oppose him".<sup>2</sup>

It was not parliament only that the government thought worth influencing. Articles were devised by the council to justify the Boleyn marriage,<sup>3</sup> and according to Chapuys<sup>4</sup> this was only a preamble to other books, for instance Marsiglio's, which before no one dared read. Stokesley bishop of London explained to Bedell "of the King's Council" his attitude to the marriage. Reports were received of the impression made by the council's pamphlet abroad<sup>5</sup>: More denied the rumour that he had answered the pamphlet saying that he knew his duty too well to answer a book with such authority.<sup>6</sup> There was a friar<sup>7</sup> who got into trouble for being bolder. John Rastell wrote a book,<sup>8</sup> corrected by the council, for the justices at sessions to explain to the people the insignificance of the pope. The council entertained the Scotch embassy to dinner in the Star Chamber.<sup>9</sup> Cromwell, with one eye on the roll of the Chamber and of the Household, noted the need "to appoint the most assured and substantial gentlemen in every shire to be sworn of the King's Council, with orders to apprehend all who speak or preach in favour of the Pope's authority".<sup>10</sup> Yet not even Cromwell and the council were all-powerful: they might be appealed to against the king's commissioners in the marches, or against a great noble and official who would not pay his debts,<sup>11</sup> but the mayor of Southampton dared not carry out Cromwell's search order too stringently, for fear of being sued before the council,<sup>12</sup> and the king was saying that if offices were to be sold he would have the profits himself.<sup>13</sup> Council was doing more

<sup>1</sup> *L. and P.* vi, no. 160, Feb. 1533.

<sup>2</sup> *L. and P.* vii, no. 83, Chapuys, 17 Jan. 1534; cf. also no. 121, 29 Jan. 1534.

<sup>3</sup> *L. and P.* vii, no. 1, probably issued Christmas 1533.

<sup>4</sup> 3 Jan. 1534, no. 14.

<sup>5</sup> *English Works*, p. 1422.

<sup>6</sup> Cf. nos. 1071-3.

<sup>7</sup> No. 420. Cf. below, p. 242.

<sup>8</sup> No. 473.

<sup>9</sup> Cf. nos. 115, 124.

<sup>10</sup> Charnock, *L. and P.* vii, no. 259.

<sup>11</sup> 28 Mar. 1534, nos. 384, 393.

<sup>12</sup> Nos. 1590, 1248.

<sup>13</sup> No. 386.

and more important things, because there were more and more important things to do, and because it was doing more and more things, therefore distinctions were more and more developing between being of the council, like Bedell, purely as an expert, and being of it in a more general and political way, and thirdly in a still more habitually confidential sense, as Robert Wingfield was to write,<sup>1</sup> "I have been sworn of his Council above twenty years and of his Privy Council above fourteen years"; but no such distinction had yet required enough fixity or force to limit in any way the royal freedom of action.

The "chief members"<sup>2</sup> of parliament were rather in the upper house than in the lower, and there Henry had been both fortunate and active. Lee archbishop of York, Tunstall bishop of Durham, Fisher bishop of Rochester, and lord Darcy, and many others were, according to Chapuys, "countermanded".<sup>3</sup> Between the fall of Wolsey and 1533 five bishoprics had been filled, and in 1534 five more fell vacant:<sup>4</sup> for the rest, Norwich and Chichester were each over ninety years old, and Llandaff could not speak a word of English. Besides this, during 1533 many abbeyes fell vacant, and in every case the new elections were held under pressure which in many cases had been exercised already to procure resignation. Probably the main object was an attack upon church property, but the general effect would be to get an amenable house of lords.<sup>5</sup>

If parliament's chief business was to be the demonstration to Europe that England could get on perfectly well without Rome, then a neces-

<sup>1</sup> 16 Feb. 1535, *L. and P.* VIII, no. 225.

<sup>2</sup> See last paragraph but one.

<sup>3</sup> No. 121, see also no. 690, and *Harpfield*, notes, p. 351; but apparently Fisher was ill, *L. and P.* VIII, no. 116: only about a third of the spiritual lords attended, and no doubt the absentees were those whose absence the king preferred. Cf. *L. and P.* VII, nos. 171, 296, the premunire against the ninety-year-old bishop of Norwich, and his pardon in return for 30,000 crowns.

<sup>4</sup> Campeggio and Ghinucci were deprived by parliament; for all this cf. A. F. Pollard, *Henry VIII*, pp. 317, 318, and his references.

<sup>5</sup> A. F. Pollard (*Henry VIII*, p. 318) points out that convocation was still more amenable; but even the members of convocation could not be trusted simply to do as they were told: cf. Friedmann, *Anne Boleyn*, 1, p. 265, for the failure, largely because of Stokesley, to get the higher secular clergy and the heads of houses to sign a declaration that convocation had declared the Aragon marriage nul ab initio, and the Boleyn marriage good.

sary preliminary was insurance against disaffection, and for this there was nothing more necessary and useful than "To cause indictments to be drawn for the offences in treason and misprision concerning the Nun of Canterbury—To know what the king will have done with the Nun and her accomplices".<sup>1</sup>

Elizabeth Barton was maidservant to the archbishop of Canterbury's bailiff at Aldington in Kent. In the spring of 1525, in recovering from a severe illness, she began to be religious beyond reason and to see visions. Warham sent some of the monks of Canterbury, headed by Dr Bocking, to enquire into her character and good faith, and they reported favourably.<sup>2</sup> After this she acquired a great reputation as a prophetess and holy woman, especially after an occasion when, in fulfilment of a promise to perform a miracle on a certain day, she lay in a trance for three hours, "a voice speaking within her belly as it had been in a tun... sweetly of heaven and terribly of hell",<sup>3</sup> besides "many things for the confirmation of pilgrimages and trentals, hearing of masses and confessions, and many other such things".<sup>4</sup> This miracle was written up by a neighbouring gentleman called Thwaites, and attained a wide publicity. Elizabeth, with Bocking as her confessor, became a nun at Canterbury, and a prophet in a general way, both private and public, so much talked of that the king was shown a collection of her oracles and had them examined by More, who thought them nothing wonderful.<sup>5</sup> The nun was used mainly, no doubt, as an occasion of edification and an agent of revival: "Let us magnify the name of the Lord," wrote Henry Man to Bocking, "who has raised up this holy virgin, a mother indeed to me and a daughter to thee, for our salvation. She has raised a fire in some hearts that you would think like the operation of the Holy Spirit in the Primitive Church. If you saw with what frequent tears some bewailed their transgressions!"<sup>6</sup> But her revelations and exhortations were extended to politics as well,

<sup>1</sup> From Cromwell's remembrances, *L. and P.* VII, nos. 48, 52.

<sup>2</sup> VI, no. 1470.

<sup>3</sup> VI, no. 1546.

<sup>4</sup> Quoted in *D.N.B.*

<sup>5</sup> "...but that as it was reported that a miracle was showed upon her, he durst not be bold in judging the matter": *L. and P.* VII, no. 287.

<sup>6</sup> *L. and P.* VI, no. 835.

or to the dangerous borderland where royal marriages are; she denounced the divorce, with threats that if Catharine suffered any wrong Henry "should no longer be king of this realm... and should die a villain's death": she wrote to the pope: she even forced her way into Henry's presence to try and frighten him away from the Boleyn marriage: and when Henry was still on the throne after the term of her prophecy was up, she asserted that he was no longer king in the eyes of God.<sup>1</sup> Her denunciations continued after the marriage was known, so that it was not strange that the new archbishop of Canterbury found it his duty to investigate her behaviour,<sup>2</sup> which he did by feigning to believe in her,<sup>3</sup> with such success that in September 1533 it was possible to arrest her, with various monks, parsons, and gentlemen her associates, and to make a list of notable people who were more or less compromised—More, Fisher, the marchioness of Exeter, the countesses of Salisbury and Derby, Lord and Lady Hussey:<sup>4</sup> and the nun "confessed that she never had a vision in her life, but feigned them all".<sup>5</sup> Then

the king... assembled the principal judges, and many prelates and nobles, who have been employed three days from morning to night...; and at the end of this long consultation<sup>6</sup>... the chancellor, at a public audience where were people from almost all the counties of the kingdom, made an oration how that all the people of this kingdom were greatly obliged to God,

for revealing the great wickedness of the nun and her accomplices,

whom for the most part he would not name... He praised also the general devotion to the king of the whole realm, who knew him to be rightly divorced from the queen (whom he called princess dowager), and that the most lawful marriage he had made with this lady was not for his own gratification, but to procure a lawful successor... The said nun, who was present, had so much resolution that she showed not the least fear or astonishment, clearly and openly alleging that what the chancellor said was true.

<sup>1</sup> *L. and P.* vii, no. 72.

<sup>2</sup> vi, nos. 869, 887.

<sup>3</sup> No. 967.

<sup>4</sup> vi, no. 1468—Henry not to be king a month after marrying Anne, and a long list of people to whom this was revealed.

<sup>5</sup> vi, no. 1546, Cranmer to Hawkins.

<sup>6</sup> Cromwell called it "as great a council as has been seen for many years out of parliament": *L. and P.* vii, no. 238.

The king pressed for Elizabeth and her associates to be declared traitors for not having revealed things that concerned his state, but the judges would not admit the legality of this, on the ground that the whole charge was not a defect but an excess of revelation.<sup>1</sup> However, the indignation which Audley's speech had aroused, and the cries of "To the stake!" were what the government wanted even more than subservient judges.

A larger audience than the star chamber would hold was to be reached. A scaffold was erected (Nov. 1533) outside St Paul's and from it the nun and eight or nine of her closest associates read their confessions, after which a sermon explaining their enormities was preached by the bishop of Bangor.<sup>2</sup> Opinion mattered very much to Henry, and Elizabeth Barton, with the help of Bocking, had been a very dangerous manipulator of it. Miracle-working maidens were not very uncommon, and prophecies were as common as the plague. More had published, in 1528, his belief in the "Maid of Ipswich", whose feats had been much like those of the Nun of Kent.<sup>3</sup> In 1533 there was a comet, and there were other prophetesses besides Elizabeth Barton.<sup>4</sup> On general principles there was reason enough for treating her as formidable, and then in fact she had not merely bemused the vulgar but had favourably impressed great ladies, and had at least dangerously failed to impress unfavourably some great men—Warham, Fisher, More.<sup>5</sup>

In days, then, when Henry was so much occupied with public opinion and with the necessity to keep his kingdom united, when the press<sup>6</sup> "teemed with publications in justification of the king's appeal and

<sup>1</sup> *L. and P.* vi, no. 1445, Chapuys to Charles V, 20 Nov. 1533.

<sup>2</sup> Recently elect, John Capon or Salcote abbot of Hyde (which he was to hold in commendam), vi, no. 1460. The ceremony was repeated at Canterbury, *Chronicle of St Augustine* (Camden Soc. vol. LXXVII), and *Grey Friars Chronicle*, p. 37.

<sup>3</sup> *D.N.B.* sub tit. Barton. There was another of them at Tottenham, who seems to have been counselled out of the prophetic career by Eliz. Barton: *L. and P.* vii, no. 287. But a little later, in spite of the nun's fate, "a certain Scotsman" seems to have been inclined to try his fortune in the same way: vii, no. 930.

<sup>4</sup> *L. and P.* vi, nos. 888 and 923: Mrs Amadas, whose "ungracious rehearsals" are set forth in the latter, is very amusing.

<sup>5</sup> The chronicler of St Augustine's, Canterbury, who does not appear to have had much love for Cranmer, noted that Eliz. Barton "by marvellous hypocrisy mocked all Kent and almost all England". Camden Soc. LXXVII, p. 280.

<sup>6</sup> More had refused a clerical offer of £5000 in reward of his books defending orthodoxy: Roper, p. xxvii, *English Works*, p. 867.

against the pope's authority";<sup>1</sup> when one such publication ("devised by the king's council") proved that God was pleased with the Boleyn marriage by adducing "(1) issue so soon had of this lawful matrimony; (2) so fair weather with plenty of corn and cattle; (3) peace and amity sought by foreign princes; (4) the purity of the air and freedom from pestilence for so long a time"<sup>2</sup>—in such days<sup>3</sup> the Nun of Kent had to be taken seriously, and it would have been strange if after she had been exhausted as a source of information she had not been used as a terrible example. That was what happened. On 21 February 1534 a bill was introduced into the upper house attainting the nun, Bocking, and six others as the concoctors of a treasonable conspiracy, and More, Fisher, and five others as abettors of it.

More escaped for the present. He wrote to Cromwell<sup>4</sup> explaining all his dealings with the nun—his first examination of her utterances, at the king's request, his conversations about her with friars Resbye and Riche, when he refused to listen to "revelations touching the king", his visit to her, when she told him "that lately the devil in the likeness of a bird was flockering about her chamber, and suffered himself to be caught, and then suddenly changed into such a strange ugly-fashioned bird that they were all afraid, and threw it out of the window, but they had no talk about the king, nor any other great person", and he went away, after giving her a double ducat and asking her to pray for him and his, "with a great good opinion of her", though he wrote to her later warning her not to talk of politics (with a reminder of the duke of Buckingham's fate<sup>5</sup>), and though he told Riche that her "strange tales" were "no part of the creed". But now he commended Cromwell highly for unmasking her "detestable" hypocrisy.<sup>6</sup> And

<sup>1</sup> Preface to *L. and P.* VII, p. ii, referring to nos. 1, 14, 114.

<sup>2</sup> No. 1: one of the pamphlets mentioned in no. 14 is the *Defensor Pacis* of Marsiglio: cf. above, pp. 203 n. 1 and 215.

<sup>3</sup> 1 Jan. 1535, *L. and P.* VIII, no. 1, Chapuys reported that "some of the leading men of the Council have said that, matters being as they are, nothing is wanted to set the realm topsy turvy but to translate and publish" a certain Flemish prognostication of war and trouble for Henry, which was accordingly forbidden.

<sup>4</sup> About March 4, *L. and P.* VII, no. 287.

<sup>5</sup> Cf. p. 46 above.

<sup>6</sup> Harpsfield seems to have believed in her, pp. 155-6: see also the note beginning on p. 344.

again a day or two later<sup>1</sup> he wrote thanking Cromwell for his good offices, asseverating the goodness of his intentions with regard to the nun, and especially explaining all his conduct about the king's marriage, and how, now that "his highness was in possession of his marriage and this noble woman really anointed queen", he would be the last man to murmur at or dispute it, in spite of the tenderness of his conscience and although, enlightened by Henry's book against Luther, it forbade him to deny the papal "primacy to be provided by God" and departure therefrom to be unlawful, with the reservation that perhaps a pope might be deposed by a general council.

This was something less than completely satisfactory to Henry and Cromwell, this credulity about the prophecies of a tool of reaction, whom now indeed he called lewd nun, hussy, wicked woman, but whom he had thought virtuous though he knew her responsible for utterances that must be spurious unless the Cromwellian regimen were so. He thought her wicked now that he was convinced that those utterances were made up, but from their point of view he ought to have known that she was devilish because of the content of her utterances; there should have been no question of their origin.

Fisher's defence was even less complete. When the nun prophesied the end of the reign, "he did not think any malice or evil was attended against the king, but that they were the threats of God, as she affirmed they were". He made no report to Henry, because he had been told that she had made the same prophecies to him, and because of the "much fearful words that your grace had unto me for showing unto you my mind and opinion" in the matter of the marriage.<sup>2</sup> No government over a people at all given to superstition would willingly tolerate such complacency about announcements of its damnation. Political prophecies have sometimes produced the event, especially where it turns

<sup>1</sup> 5 Mar. 1534, *L. and P.* VII, no. 289. Cf. *English Works*, p. 1422, More to Cromwell 1 Feb. 1534, confirming his cousin Rastell's denial that he had written for printing an answer "against the book of certain articles (which was late put forth in print by the king's honourable counsell)", and trusting Cromwell would testify to the unlikelihood of More's making an answer "while the matter pertained unto the king's highness, and the book professeth openly that it was made by his honourable counsell".

<sup>2</sup> 27 Feb. 1533, VII, no. 239.



upon the fate of one man. Cromwell argued shrewdly when he wrote to Fisher, "I appeal to your conscience whether you would have believed her if she had shown you as many revelations in confirmation of the king's present marriage, and would have let her trial stand over so many years, when you dwelt but twenty miles from her, in the same county?"<sup>1</sup> And Fisher did not choose his expressions very wisely when he wrote<sup>2</sup> to the lords of the parliament that "her words did not apparently refer to the temporal power but to the power of God".

Parliament met on 15 January 1534. On February 21 the bill of attainder<sup>3</sup> was brought in, and on February 26 it had its second reading in the house of lords. When it had its third reading, on March 6, the lords agreed to enquire "whether it can square with the royal mind that Thomas More,<sup>4</sup> knight, and the others named in the same bill except the bishop of Rochester, laid low by illness, whose answer is known by his letters, may appear before the lords in *Regio Senatu secus nuncupat*, *The Stere Chamber*, to hear what they can say for themselves".<sup>5</sup> This attempt did not obtain for the accused an opportunity of appearing before their judges, but it did no doubt at least contribute, along with other signs that parliament was not absolutely amenable,<sup>6</sup> to the deleting of More's name from the bill and to the allowing of Fisher to compound for a fine of £300.<sup>7</sup> On April 20 "the Nun of Kent [and five associates] were drawn from the Tower to Tyburn, and there hanged and beheaded". The same day "most part of the city was sworn to the king<sup>8</sup> and his legitimate issue by the queen's grace now had and hereafter to come. The bishops of Durham, Winchester, and York have been sent

<sup>1</sup> *L. and P.* VII, no. 238, and Burnet, IV, p. 195.

<sup>2</sup> No. 240, and Collier, IV, p. 244.

<sup>3</sup> *L.J.* I, pp. 68, 69, 72 (esp.), 74, 75, 78: *S.R.* III, p. 446, 25 H. VIII c. 12.

<sup>4</sup> Cf. *English Works*, p. 1423, More to Cromwell, probably a little before this, asking for a copy of the bill.

<sup>5</sup> Cf. Roper, p. xxxiv and Harpsfield, p. 153 for the attempt to prove More guilty of corruption as chancellor, and how by the King's command he was brought before the whole counsaile, and cleared himself in spite of the earl of Wiltshire.

<sup>6</sup> Cf. Harpsfield, p. 164.

<sup>7</sup> Richard Master was also pardoned. The bill was read a fourth time on March 12, *et per Dominos consentita*.

<sup>8</sup> At the end of the session the oath had been taken by all members of parliament and a commission had been issued to Cranmer, Audley, Norfolk, and Suffolk to administer it to subjects in general: H. A. L. Fisher, p. 327.

for. Some think they will be committed to the Tower".<sup>1</sup> So the main political purposes of the session had been fulfilled—to impress on England the king's will about his marriage and the conviction that no one was great enough to boggle at it in security: and at the same time there were signs of the other characteristic of the Cromwell period, that no one was obscure enough to speak of politics with safety. Here is one instance,<sup>2</sup> which is at the same time a reminder that Cromwell did not invent but only systematised the use of delation. On Saturday, 7 March 1534, wrote Chester Herald to him,<sup>3</sup>

I was with Dr Claybrooke at Thorgurton Abbey, Notts., where Sir Will. Dragley, prebendary of Southwell, took hold of a gold scutcheon on my breast and asked me what it was. I said, "It is the king's arms".—"Marry," said he, "I love it the worse."—"Sir," said I, "wot ye what you say?"—"By God's passion," said he, "I love him not, for he taketh our goods from us, and maketh us to go to the plough. I have been at the plough this day myself."—"Sir," said I, "ye need not for no necessity, for ye have enough if ye can be content; but I fear that ye will rather payr than mend,"<sup>4</sup> so much have you said now. The king's grace covets no man's goods wrongfully."—"God's passion," said he, "I think no harm. God save the king."—"Marry, amen," said I, "But whatsoever you think your saying is naught."—"I pray you, master Chester," said he, "Be content, for if ye report me I will say that I never said it."—"Sir," said I, "that will not serve you, for I am one of the king's heralds; wherefore I must needs report all such things as are contrary to his honour." Whether he were overcome with drink or no, I cannot tell; but the bearer, Dr Claybrooke, will inform you of his quality. I have been servant to king Henry VII and the present king thirty years and more, and never till now heard any of their subjects rail upon them, except one in the late king's days. I took one that railed against his grace in Cheapside, London, and delivered him to Digby, lieutenant of the Tower, the day that Perkin Warbeck was rayned upon a scaffold in Cheapside, but for all that he was let go in a fortnight, and when he met me he was like to have slain me. And so it will be now if the king is not good to me. I have paid large money

<sup>1</sup> *L. and P.* vii, no. 522, John Husee to Lord Lisle, 20 April 1534.

<sup>2</sup> For other cases of delation, mostly of clerics and mostly to the council, see *L. and P.* vii, nos. 140, 261, 454, 480, 523, 630, 641, 828, 907.

<sup>3</sup> vii, no. 298.

<sup>4</sup> Get worse than better.

for writing, as I cannot see little things without spectacles, nor with them, "but this my own hand binds me to be always ready".<sup>1</sup>

There were very few such servants, after all, at the disposal of a Tudor government. For information and action alike it must rely largely upon a general serviceability. It is time to return to the great organ of that reliance and to recount the parliamentary session which lasted from 15 January to 30 March 1534, and passed the statutes which decided the character of the modern English church and state, not without persuasion: government proposals might have to be "proposed two or three times...pressed more eagerly";<sup>2</sup> or "the whole Parliament" might be "with the King at York Place for three hours".<sup>3</sup>

<sup>1</sup> Cf. R. B. Merriman, *Thomas Cromwell*, 1, p. 117, for cases in 1535 and 1536, especially the eighty-year-old husbandman who thought it the king's fault the weather was so troublous or unstable, and the spinster who described Anne as a goggle-eyed whore: and July 1531, *L. and P.* v, no. 336, the bailiff of Perworth delating the vicar of South Arting, and hoping to share in resultant forfeitures: 1536, the Lincolnshire man delated for sympathising with the rebels there in a Fittleworth (Sussex) beer-house: 1538, delation of the Fittleworth man who cursed the king when his pig was taken for his taxes, *National Review*, no. 585, Lady Maxse referring to *Record Office*.

<sup>2</sup> Chapuys, *L. and P.* vii, no. 296, 7 March 1534.

<sup>3</sup> And afterwards "all the Lords went into the Council House at Westminster, and sat till ten at night", viii, no. 304, Rokewood to Lisle: the matter in question was the queen's jointure: one difficulty was the fears of the city members about the effect on treaties.

## CHAPTER XII

### PARLIAMENT, SUPREMACY, SUCCESSION, TREASON

Just about half the chapters of the early 1534 session's acts were of an economic nature—about grasiers and butchers, prices of victuals, dyeing, calendering, pewtering, paving Holborn, cloth, books, sewers, wild-fowl, and sheep-farms.<sup>1</sup> It is remarkable that the early<sup>2</sup> days of the session seem to have been occupied exclusively with matters of this sort, and a few of an extremely moral intention, one for punishing a particularly atrocious murder<sup>3</sup> and another making "the treason of" sodomy a capital offence.<sup>4</sup> The one about sheep-farms is worth a short exposition: it began by regretting that

divers and sundry persons of the king's subjects of this realm, to whom God of his goodness hath disposed great plenty and abundance of movable substance, now of late within few years have daily studied, practised and invented ways and means how they might accumulate and gather together into few hands as well great multitude of farms as great plenty of cattle, and in especial sheep, putting such land as they can get to pasture and not to tillage, whereby they have not only pulled down churches and towns and enhanced . . . rents . . . or else brought it to such fines that no poor man is able to meddle with it,

but also raised the prices of food to starvation heights; all this mainly because of the excessive profit that came from sheep; and therefore it was enacted that no one was to keep more than two thousand sheep, except that laymen might keep more on their own inheritance, and no one was to take more than two farms.<sup>5</sup>

<sup>1</sup> 25 H. VIII c. 13. This bill was thoroughly considered: it began in the commons, received its first reading in the lords on Feb. 7: on March 26 the *Lords Journals* noted that the commons had added to it: on March 27 it was read, apparently with the addition, a third time: on the 28th again and handed to Fitzherbert, attorney-general: on the 30th both houses agreed to it: *L. J.* 1, pp. 65, 81.

<sup>2</sup> *L. J.* 1, pp. 60 ff.

<sup>3</sup> 25 H. VIII c. 34.

<sup>4</sup> C. 6.

<sup>5</sup> The act also confirmed 4 H. VII c. 19 and 7 H. VIII c. 1, and contained a proviso in favour of spiritual persons.

It was after the introduction of such very respectable bills, and after the lords had visited the star chamber "to inspect the alliance between our lord king and the king of France, to know whether certain bills pending in the present parliament are consistent with the said alliance",<sup>1</sup> that the ecclesiastical business of the session was done.

The two items which were taken first were the arrangement of Catharine's dowry and the final settlement of annates and episcopal appointments. The importance of the former<sup>2</sup> was that it tied parliament to the thesis that Catharine never had been queen, that Henry "being young in years not being truly advertised of the law of Almighty God" had married her in deed but not of right and that the marriage "was and is detested and prohibited by the laws of Almighty God, and by due order and process is now clearly and utterly dissolved avoided and annihilated". But this was incidental: the second Annates Act, on the other hand, was in its very essence definitively anti-papal. The dowry bill had needed a good deal of discussion, and had been substantially amended in the house of commons.<sup>3</sup> The annates bill was read for a second time by the lords on 11 February 1534, and handed over to the chancellor that the king "for certain reasons" might see it: on the 27th it was brought up from the commons, and rejected, and a new bill read for the first time: this was read a second time on March 3: on the 5th the lords read it again and resolved that it was to be put on parchment, and perhaps this was not unconnected with the fact that the day before "the whole parliament were with the king at York Place for three hours, and afterwards all the lords went into the council house at Westminster, and sat there till ten at night".<sup>4</sup>

The second Act of Annates began by reciting the gist of its predecessor, 23 H. VIII c. 20,<sup>5</sup> how the pope had ignored it and the king

<sup>1</sup> *L.J.* I, p. 64. Cf. Cardinal du Bellay's efforts to come to some arrangement at Rome, p. 229 below.

<sup>2</sup> 25 H. VIII c. 28.

<sup>3</sup> *L.J.* I, p. 71: cf. *L. and P.* VII, no. 296: the cities, esp. London, feared that, as guarantors of the marriage treaty with Spain, they might have their property sequestered by Charles.

<sup>4</sup> *L. and P.* VII, no. 304, J. Rokewood to Lord Lisle, 8 March 1534: on the 9th the Annates Bill was read a third time in the lords and agreed to, on the 16th the commons agreed: cf. p. 224, n. 3.

<sup>5</sup> Printed in Gee and Hardy, p. 201: and cf. p. 173 above.

had confirmed it: now it was re-confirmed, except that no one was to be nominated to the pope for any bishopric nor to ask him for any sort of recognition nor (naturally) to pay annates: all elections were to be by deans and chapters, under the king's licence and letters missive naming the person to be chosen, and in default of such election the king should nominate by letters patent addressed to the archbishop or three bishops, after the elected had made oath and fealty to the king: the archbishop was "to confirm the said election and to invest and consecrate the said person so elected to the office and dignity... and to give and use to him all such benedictions ceremonies and other things requisite for the same without any suing procuring or obtaining any bulls letters or other things" from the see of Rome: and any one recalcitrant would "run into the dangers pains and penalties of the statutes of provision and premunire".

The Act against Papal Dispensations and Peter's Pence<sup>1</sup> was passed a little later: "... where this your grace's realm recognising no superior under God but only your grace has been and is free from subjection to any man's laws but only to such as have been devised made and ordained within this realm for the wealth of the same or to such other as by sufferance of your grace and your progenitors... long use and custom" have authorised; "it stands therefore with natural equity and good reason that in all and every such laws human made within this realm... your royal majesty and your lords spiritual and temporal, and commons, representing the whole state of your realm, in this your most high court of parliament, have full power and authority not only to dispense" with them but also to "abrogate annul amplify or diminish" them. Accordingly it was forbidden to pay any Peter's Pence or other Roman impositions: no one, king or subject, was to sue for any dispensation or licence from Rome, but the archbishop of Canterbury might grant all such things "for causes not being contrary or repugnant to the Holy Scriptures and laws of God", provided he did not invent

<sup>1</sup> C. 21: Gee and Hardy, p. 209: it was brought up from the commons on March 12, read once on the 13th, on the 19th read a third time, with a proviso to be added, and handed to the chancellor; on the 20th it was read a fourth time, with its addition; on the 30th another addition was read three times, agreed, and accepted by the commons, and the bill was finally passed.

any new and unaccustomed kind of instrument without the approval of the king or his council, and provided that no instrument which would have cost more than four pounds at Rome should be put in execution without leave under the great seal:<sup>1</sup> a schedule of fees was to be drawn up. If the archbishop unreasonably refused to grant licence or dispensation, then the chancellor should enjoin him by writ under the great seal to grant, "or else signify unto your highness . . . in the court of chancery . . . for what occasion or cause he refused . . .".

At the same time the statute was careful to make clear that the king, his nobles and subjects did not

intend by the same to decline or vary from the congregation of Christ's Church in any things concerning the very articles of the Catholic faith of Christendom, or in any other things declared by Holy Scripture and the word of God necessary for your and their salvations, but only to make an ordinance by policies necessary and convenient to repress vice and for good conservation of this realm.

Exempt monasteries and places religious were not by this act brought under the visitation of the archbishop unless he were commissioned by the king: "liberties privileges or jurisdiction of any monasteries . . . or places exempt" previously obtained from Rome were to remain valid: where appointments had needed papal they should now receive royal confirmation. Licences and dispensations obtained at Rome before 12 March 1533 were to stand, but not to be put in execution if they were contrary to the laws of the realm. And "the king our sovereign lord by the advice of his honourable council, shall have power and authority from time to time for the ordinary redress and reformation of all manner of indulgences and privileges thereof". Finally, the act was not to come into operation before June 24<sup>2</sup> unless the king decided otherwise, and before that date he had power "by his letters patent under his great seal, to be enrolled in the parliament roll of this present parliament, to abrogate annul and utterly repeal and make void this

<sup>1</sup> And for these important documents the fees were to be distributed thus—9/18 to the king, 2/18 to the chancellor, 1/18 to the chancellor's clerk, 4/18 to the archbishop, 1/18 to his registrar, 1/18 to his commissary: the distribution of the smaller fees was similarly fixed.

<sup>2</sup> The Nativity of St John Baptist.

act", or as much of it as he chose, such repeal to be "as good and effectual as though it had been done and had by authority of parliament".

This permissive nature of the statute, its suspension for three months, with authorisation of the king to annul all or any of it during that time, were connected with the last desperate efforts at negotiation with the pope, efforts which do not appear to have been taken very seriously by the pope<sup>1</sup> or by Henry, but which were due to France's unwillingness to break with either party. John du Bellay bishop of Paris was in Rome all the early part of the year, vigorously and hopefully striving to make some arrangement by which papal authority might be given to the Boleyn marriage:<sup>2</sup> Henry, he understood, would not throw off his obedience to the see of Rome if the pope would grant what he demanded before Easter without further process. But the pope might think that the obedience had already gone so, and the French found it excessively difficult to get Henry to hold up anti-papal legislation or to go so near to admitting papal jurisdiction as was involved in sending "excusators" to Rome.<sup>3</sup> On 15 March 1534 the bishop wrote plaintively<sup>4</sup> that "it would be well that the king of England should be a little more moderate. . . it will be a great misfortune if the king of England will not listen to reason". By then both of the principals must have known, if they had ever doubted, that the whole attempt was futile, and when on March 23 sentence was given by the pope declaring the Aragon marriage valid,<sup>5</sup> the provision that it need not be published till after Easter<sup>6</sup> was rather a politeness for the king of France<sup>7</sup> than a last chance for the king of England. On March 25 Chapuys wrote<sup>8</sup> to Charles:

<sup>1</sup> The imperial ambassador, indeed, found him in no hurry to give sentence against Henry, but embarrassingly anxious that if he did give sentence Charles should make a reality of it: *L. and P.* VII, no. 39, 12 Jan. 1534.

<sup>2</sup> *L. and P.* VII, nos. 184 and 185.

<sup>3</sup> *L. and P.* VII, App. nos. 11, 13.

<sup>4</sup> Though he thought no one could maintain that the dispensation to marry Catharine had ever been valid, and that at the worst Henry could not lose his case: VII, App. no. 12.

<sup>5</sup> VII, nos. 362, 370, and App. 16.

<sup>6</sup> April 5.

<sup>7</sup> And perhaps a little for the emperor, who did not want to quarrel with Henry either, and was designated executor of the sentence: cf. VII, no. 476.

<sup>8</sup> VII, no. 373.



"The acts passed by the commons against the pope and the authority of the holy see have to-day<sup>1</sup> been ratified by the nobles and clergy, to the great regret of good men, who were in a minority in consequence of the threats and practices of the king. Nothing is wanting now but the king's formal confirmation, which he defers until the arrival of the bishop of Paris". On the same day, he reported, two doctors started for Rome, but it was carefully given out that they were going on private business, and they had no proxy from Henry, so that their function also was rather compliment to Francis than approach to Clement: all that they did in fact was to protest against the illegality of the pope's proceedings.<sup>2</sup> Already on March 30 Henry had given his assent to parliament's acts of that session,<sup>3</sup> and on the next day convocation replied to the question "Whether the Roman pontiff has any greater jurisdiction conferred on him by God in holy scripture, within this realm of England, than any other foreign bishop": thirty-four were against, one in doubt, and only four affirmative.<sup>4</sup> When on April 3 news arrived of the papal sentence<sup>5</sup> there remained nothing more to do except to put into force the act against Peter's Pence, and that was done at once.<sup>6</sup> Now all papal jurisdiction had been destroyed as thoroughly as the English king, parliament, and convocation could do it. But meanwhile there were three other bills passed in this session which have not yet received due notice; it will be convenient to take first the submission of the clergy and the Heresy Act, as directly and mainly ecclesiastical, and to come then to the Act of Succession.

The Heresy Act<sup>7</sup> recited the statute 2 H. IV c. 15, by which

<sup>1</sup> It does not appear from *L.J.* that anything was done on that day.

<sup>2</sup> *L. and P.* VII, no. 481, April 14.

<sup>3</sup> 1533-4, *L.J.* I, p. 81.

<sup>4</sup> Wilkins, III, p. 769. York followed suit in May. And cf. above, p. 188.

<sup>5</sup> Cf. p. 209 above.

<sup>6</sup> *L. and P.* VII, no. 469: at the same time the preachers for Easter were commanded "to say the worst they possibly could against the pope, in which they have acquitted themselves desperately": Chapuys to Charles, April 12.

<sup>7</sup> 25 H. VIII c. 14. *L.J.* I, p. 80: a heresy bill came in on March 26 and was then read for the first time, on the 27th it was read a second time and handed to the chancellor: but on the 28th another bill about heretics was read three times and agreed to. Already "on Mar. 5 the Common House went before the king in his palace, and the Speaker in the name of all his subjects desired reformation of the acts made by the spirituality in convocation against the king and his subjects calling

ordinaries were empowered to arrest on suspicion of heresy and to imprison till purgation, abjuration, or committal "to lay power to be burnt after the determination of the holy church and canonical sanctions"; it regretted the absence of any definition of heresy (so that on captious interrogatories the wisest might be caught out), and the iniquity of conviction except by due accusation and witness, or presentment and verdict, or confession, or process of outlawry, especially considering that "by the laws of your realm for treasons committed to the peril of your most royal majesty, upon whose surety dependeth the whole wealth of this realm, no person can nor may be put to death" without some such process;<sup>1</sup> it assumed that many of the heresies "declared and ordained in and by the said canonical sanctions and by the laws and ordinances made by the popes or bishops of Rome" were "but human, being mere<sup>2</sup> repugnant and contrarious to the prerogative of your imperial crown regal jurisdiction laws statutes and ordinances of this your realm", so that for maintaining the said laws the people might under the act of Henry IV be brought into slander of heresy; and therefore that act was repealed: but in order that the detestable crime of heresy might be eradicated, the statutes of Richard II and Henry V<sup>3</sup> were confirmed, presentments might be made by any two persons holding land worth forty shillings a year, and were to be certified to the ordinaries, who must try them openly, and might in the worst case commit the accused "to lay power to be burnt in open places for example of others as hath been accustomed, the king's writ *de heretico comburendo* first had and obtained for the same". Finally,<sup>4</sup> ignorant people were informed that the ordinance of the bishop of Rome, "not approved and confirmed by holy scripture, was never

them to courts *ex officio* and not knowing their accusers, causing them to abjure, or else to burn them for pure malice, taking tithes and offerings contrary to justice, and being judges and parties in their own causes. It was ordained that eight of each house and sixteen bishops with other of the clergy should discuss the matter, and the king to be umpire": *L. and P.* vii, no. 399, and cf. no. 304, where it is reported that "the whole parliament" was with the king for three hours.

<sup>1</sup> They forgot bill of attainder: but of course attainder did at the worst require the assent, however motivated, of a great number of more or less ordinary Englishmen.

<sup>2</sup> Absolutely, undilutely.

<sup>3</sup> 5 R. II st. 2, c. 5, and 2 H. V st. 1, c. 7.

<sup>4</sup> Except for a clause permitting bail at the discretion of the ordinary or, failing him, of two justices of the peace of the shire.

commonly accepted or confirmed to be any law of God or man within this realm"; and therefore it was enacted that

no manner of speaking doing communication or holding against the said bishop of Rome or his pretended power, . . . nor . . . against any laws called spiritual laws made by authority of the see of Rome by the policy<sup>1</sup> of men, which be repugnant or contrariant to the laws and statutes of this realm or the king's royal prerogative, shall be deemed . . . to be heresy . . .

It was on the day before this Heresy Act, replacing a previous bill which had come to grief, went through all its stages in the house of lords, that the commons came to the upper house with a bill about submission of the clergy,<sup>2</sup> which was that day read twice: on 28 March 1534 the lords, after adding a proviso, read it a third time, and passed it: it registered the acknowledgment of the clergy, "according to the truth, that the convocation of the same clergy is always has been and ought to be assembled only by the king's writ", and their promise not to enact or execute any new canons without royal consent, and their request for existing canons to be examined by a commission of thirty-two, so that such of them "as by the said two-and-thirty or the more part of them shall be approved to stand with the laws of God and consonant to the laws of this realm, shall stand in their full strength and power, the king's most royal assent first had and obtained": the act then gave statutory obligation to the promise, and, regretting that there was not time now, to the commission of thirty-two whenever in the future the king might appoint it:<sup>3</sup> and, by way of confirmation and extension of 24 H. VIII c. 12, all sorts of appeals to Rome were forbidden, and instead appeal should lie to chancery, there to be heard by commissioners appointed under the great seal.<sup>4</sup>

When at last this great session of parliament came to an end, the

<sup>1</sup> The word is spelt *police*: in the *N.E.D.* the first two meanings of *police* are: *Policy*, and *Civil organization*: and of *policy*; *an organized and established system or form of government or administration* and *government, administration*.

<sup>2</sup> 25 H. VIII c. 19: Gee and Hardy, p. 195; *L.J.* 1, pp. 80, 81. Cf. p. 188 above.

<sup>3</sup> It never was appointed, so that canons not repugnant to the law of the land or royal prerogative remained in force. And cf. above, p. 188, and below, p. 280.

<sup>4</sup> On March 28 the bill, with a provision added by the lords, was read a third time in the upper house and transmitted to the chancellor.

lord chancellor made on behalf of the king a speech of prorogation,<sup>1</sup> and besides he intimated on behalf of the king

that one act, published among the rest in this session of parliament, about the confirmation of the right to the imperial crown of this country of England which belongs and duly belongs<sup>2</sup> to the royal issue, begotten or to be begotten, of the bodies of our most dread lord king and of the lady Anne his consort, is the first and most advantageous; in which act it is established among other things that all and singular should take oaths to observe everything in the same act, and accordingly the king had appointed a commission to administer a form of oath to all subjects and lieges. Why this act and its oath were so important and how speedily and tragically they were tested are matters that must be explained, but first it is convenient to indicate the terms of the act.<sup>3</sup>

It called to mind the natural human care for succession, how in Henry's case upon it "dependeth all our joy and wealth", what evils the past had suffered from uncertain successions (not that there could be any real question this time, but that the wicked would maliciously misunderstand) and from the want of any readily applicable criterion within the realm:

by reason whereof the bishop of Rome and see apostolic, contrary to the great and inviolable grants of jurisdictions given by God immediately to emperors kings and princes, in succession to their heirs, has presumed in times past to invest who should please them to inherit in other men's kingdoms and dominions, which thing we your most humble subjects both spiritual and temporal do most abhor and detest,

especially in view of the possibility of foreign princes supporting such papal outrages; and so, recalling once again how everything depended on "the certainty and surety of the procreation and posterity of your highness, in whose most royal person at this present time is no manner of doubt or question", lords and commons "most humbly beseech

<sup>1</sup> *L.J.* 1, p. 82.

<sup>2</sup> *Habere debent.*

<sup>3</sup> Read a first time in the lords on March 20; read a second time and transmitted to the chancellor on the 21st; read a third time, agreed to, and sent to the commons on March 23 (on which day the bill about Anne's dowry was brought up from the commons); on March 26 it was brought back (under the description "confirmation of the matrimony solemnised . . ."), agreed, from the house of commons. 25 H. VIII c. 22.

your highness that it may please your majesty that it may be enacted by your highness, with the assent of the lords spiritual and temporal and the commons"—that the marriage with Catharine, because of defects sufficiently proved by lawful process before the primate,

shall be by authority of this present parliament definitively clearly and absolutely declared deemed and adjudged to be against the laws of Almighty God, and also accepted reputed and taken of no value nor effect but utterly void and annulled, and the separation thereof made by the archbishop shall be good and effectual to all intents and purposes; . . . and that the lawful matrimony had and solemnised between your highness and your most dear and entirely beloved queen Anne shall be established and taken for undoubted true sincere and perfect ever hereafter, according to the just judgment of the said Thomas, archbishop of Canterbury,

a judgment confirmed as consonant with God's law by both convocations, many universities, and the members of parliament, "most humbly beseeching your majesty that it may be so established for ever by your most gracious and royal assent". And marriage within the prohibited degrees, since no man may dispense with God's laws, was forbidden; where it existed it was to be undone by the ordinaries, and the children to be illegitimate. All the children of Henry and Anne were to be "lawful children, and be inheritable, and inherit . . . the imperial crown . . . with all dignities . . . and jurisdictions . . . in as large and ample manner as your highness at this present time . . .". The act was to be proclaimed throughout England. Any disturbing of the title or slandering of the marriage by writing or acting was made treason, by mere speaking misprision of treason. All subjects of full age were "to make a corporal oath . . . that they shall truly firmly and constantly . . . defend and keep . . . the whole effects and contents of this present act", under penalty as for misprision of treason. The form of the oath was not specified in the statute, but that taken by the parliament and presumably intended for use by the commission<sup>1</sup> appointed on 30 March 1534 is preserved in the *Lords Journals*:<sup>2</sup>

<sup>1</sup> Audley, Cranmer, Norfolk, Suffolk.

<sup>2</sup> 1, p. 82. For the case against the oath as administered to More, cf. *Archaeologia*, xxv, pp. 73-4; xxvii, pp. 361-2.

Ye shall swear to bear your faith, truth, and obedience alone to the king's majesty, and to the heirs of his body, according to the limitation and rehearsal within this statute . . . and not to any other within this Realm, nor foreign Authority . . . and in case any oath be made, or hath been made, by you, to any other person or persons, that then you to repute the same as vain and annihilate; and that . . . ye shall observe . . . and defend this act above specified, and all the whole contents and effects thereof, and all other acts and statutes made since the beginning of this present parliament, in confirmation or for due execution of the same . . . So help you God and all Saints.

It has been thought worth while to indicate, so far as the *Lords Journals* make possible, the dates and modes of initiation of this session's enactments—how none of the ecclesiastical bills appeared in the first third of the session, only one (not counting Elizabeth Barton) in the second third (and that was rejected), and the whole mass of them was passed in the last third. This was not because there was anything improvised or disjointed about the ecclesiastical legislation: on the contrary, the Dowry Bill<sup>1</sup> and the attainder of Elizabeth Barton were the reconnaissance and the first smashing blow in a large campaign, the economic and moral legislation was by way of securing the base, and the more or less ecclesiastical bills were all thrusts in one integral advance, as is indicated well enough by the assumption in the oath that the other acts were “in confirmation or for due execution” of the Succession Act, and by the careful insistence in each one of them on the denial of the pope's jurisdiction and the assertion of the king's orthodoxy. Jurisdiction was the essence of the whole matter, and since that was a thing which came, by great and inviolable grants direct from God, orthodoxy, a right understanding of His laws, was no less essential, and indeed, in the last analysis, all true laws were His. The statutes were a way of revitalising the old, perhaps eternal, conception of the source of jurisdiction, but the new life was to produce new structures and new gestures. The denial of papal jurisdiction was a revolution, whether it was the turning back of an invasion or the overturning of a sanctity. The Act of Succession, it has been argued, was a revolution in another sense also, since it claimed for parliament a new kind of

<sup>1</sup> Which was amended on 19 Feb. 1534.

competence, earlier parliaments had recognised who was king, this one settled who was to become king: but that was not what parliament claimed to do:<sup>1</sup> all it claimed was to register the decision of Canterbury (according to the laws of God) that Catharine was not married to Henry, that Anne was, and that therefore Anne's children should be the heirs of England. Parliament was not yet making heirs or making Law, though it might ordain laws and penalties or indicate heirs and allegiances: only, it had just been used to register the greatest competing jurisdiction's<sup>2</sup> lack of any right to exist: now here it was, against the voice of that jurisdiction and of twenty-five years' habitude, registering the illegitimacy of one family and the legitimacy of another: all this might be mere registration, declaration, but on such a scale and with such a depth it came very near to creation, by black magic or by God's grace, and if what was now fixed were to be destroyed again, if parliament were to unsanctify the Boleyn marriage without receiving any new revelation of jurisdiction, then it would begin to become very difficult to say what there was that parliament could not do.

To speak of parliament doing anything is hardly more than metaphorical; things are done rather in parliament than by it: so for this session of 1534, it would be interesting to know who were the men who made the acts of parliament. Most of those acts were, in modern language, government bills, but it is quite clear that by no means any government proposal was simply accepted as a matter of course, since several of them were amended,<sup>3</sup> we know not how nor by whom, or

<sup>1</sup> Cf. p. 240 below.

<sup>2</sup> A little earlier there had been a striking instance how implicitly and in what authoritative quarters was assumed parliament's authority and availability to declare jurisdiction. *L. and P.* v, no. 1430, Audley to Cromwell (with the King in France) 15 Oct. 1532: "Last Sunday afternoon the Chief Justice asked whether the King had made any lieutenant of the realm in his absence. Said that his Majesty had not done so, not thinking it requisite for so short a time. The Chief Justice, however, was in great doubt how the king's laws and justice should proceed, and the matter was accordingly discussed privately by the justices in the Exchequer Chamber. . . . It was determined to keep silence about the matter, for any doubt of error can soon be remedied by Parliament. . . . Wishes him to mention the matter to the King, but to no other. . . ."

<sup>3</sup> Dowry Bill, e.g.: but sometimes we do know how, e.g. it is clear from *L. and P.* vii, no. 51 (referred to by A. F. Pollard, *Henry VIII*, p. 321), one of Thomas Cromwell's

even rejected or redrafted,<sup>1</sup> we know not why. The house of commons<sup>2</sup> tended to be the place where government measures were initiated, all the more, no doubt, because of Cromwell's influence, and also because of anti-clericalism among the burgesses. Their anti-clericalism tempted them to try their hand at the initiative in matters of jurisdiction also.

On 7 February 1534, of four bills<sup>3</sup> brought up to the lords from the commons, "the third, written on paper, concerns the complaint of Thomas Phillips, since long shut up in prison on suspicion of heresy, against John bishop of London. And the fourth comprises articles of objections laid upon the aforesaid Thomas Phillips, together with his answers". But the lords were not going to have the commons annexing jurisdiction by thus adopting the complaints of individuals, and two days later,<sup>4</sup> when the bill had been read in their house for the first time, "they came to the opinion that it did not belong to that illustrious senate or council to consult about such frivolous things; and so it was decreed that they should be sent back to the lower house". Nor could the bishop complain of any lack of corporate feeling by the lords in general on this occasion. On March 2

the bishop of London intimated to the lords that the day before a committee<sup>5</sup> of the house of commons had required him to answer

remembrances, that mere speaking against the Act of Succession was reduced to misprision of treason in order to placate parliamentary opposition.

<sup>1</sup> Annates Bill, e.g.

<sup>2</sup> But most statutes had originated there since the end of the fourteenth century: cf. *Henry VII*, p. 121. Notestein, *Winning of the Initiative by the House of Commons* (Brit. Acad. 1924), pp. 9, 10, says: "Apparently some of the ecclesiastical legislation originated with" the Commons, "the Crown abetting. About other kinds of legislation, it is hard to say how far the Commons were prime movers... the least burgess could leave his bill with the clerk and ask the House that it be read... they bespoke the good offices of the Speaker and the Clerk, they solicited friends... but these measures were usually private acts... The Commons were so occupied with subsidy bills and... other bills which Councillors and their working allies... had introduced, that time... fought against those who would innovate... the Speaker and the Clerk... scrutinised bills that did not come from above and furthered only such as met with high approval": and then there were the lords and the law officers: "those wise in their generation who wished to advance bills... wrote usually before the sessions to a Secretary or other Councillor...".

<sup>3</sup> *L.J.* I, p. 65.

<sup>4</sup> *L.J.* I, p. 66: the day in between was a Sunday.

<sup>5</sup> *Quibusdam destinatis: L.J.* II, p. 71.



certain things written against him by Thomas Phillips, detained on his orders in the Tower, and that he said that the complaint of the aforesaid Thomas Phillips had been brought up in writing by the commons house to the upper house, where it was reckoned a matter too frivolous to be considered there, and sent back to the lower house, and that he would do nothing in the matter without the cognisance of the lords; and when they had heard this all the lords, spiritual and temporal, with one voice said that they would not consent that any of their body should answer any one in that place.

### CHAPTER XIII

#### CRANMER, FISHER, MORE, KILDARE, CARTHUSIANS

By the spring of 1534 the Henrican constitution was put together: it remained to see whether it could be kept together and made to work. At least Henry, or Cromwell, was determined that there should be no more loss of efficiency through want of definition. Men who believed that great and inviolable grants of jurisdiction had been given by God directly to popes might swear loyalty, might even mean loyalty, to the Henrican regimen, but they could hardly be long or whole-heartedly sure of its legitimacy. Therefore oaths of allegiance to that regimen were not enough, there must also be renunciation of all other allegiance: if in the case of unimportant people it might be passed without too close a scrutiny, from persons of a quality to be leaders in the nation or figures in Europe it must be absolute and indubitable. On that necessity More<sup>1</sup> and Fisher were gibbeted.

It was in the middle of April that they refused the oath and were imprisoned in the Tower.<sup>2</sup> More "would not deny to swear to the succession, yet unto that oath" he could not swear:<sup>3</sup> then the com-

<sup>1</sup> Already in March, when More came before the king's commissioners about the Nun of Canterbury, they (Cranmer, Audley, Norfolk, Cromwell) had tried to persuade him to add his consent unto those things that parliament, bishops and universities had already passed: but he replied that he had from the beginning made his mind clear to the king: and nothing was said about the parliament bill (25 H. VIII c. 12), in which he was charged with misprision of the nun's treason. Cf. Roper, p. xxxviii; Harpsfield, pp. 157-61.

<sup>2</sup> *L. and P.* VII, no. 490: for the quotation see More's *English Works* (1557), p. 1428, printed as no. 575 in *L. and P.* VII. Cf. also Harpsfield, p. 168.

<sup>3</sup> He was the only layman examined at once (*Works*, p. 1428). According to Roper, he told his daughter that "they that have committed me hither, for refusing of this oath not agreeable with the statute, are not by their own law able to justify my imprisonment" (MS. Harl. 6254, p. 34, printed in Harpsfield, p. 359). By the Succession Act 25 H. VIII c. 22 its "whole effects and contents" were to be sworn to, and it might be argued that its preamble covered the denial of foreign authority (cf. above, pp. 233-5). Cf. W. F. Craies, p. 185, Holt's decision in *Mills v. Wilkins* (1704) that "the preamble of a statute is no part thereof, but contains generally the motives and inducements thereof", but Craies says this is not in accord with modern

missioners told him that he was the very first that ever refused it, and he said he blamed no other man that had sworn: but he would not give his reasons, only he offered to put them in writing if he might have the king's warrant that his declaration should not offend his highness nor put him in danger of any of his statutes: it was answered, that though the king should give him license under his letters patent, yet would it not serve against the statute, but More said that if he had license he would trust Henry's honour for the rest. Cranmer tried to persuade him that he must be in some doubt, since he did not condemn those who had sworn, and on the other hand he could not be in doubt that he was bound to obey his sovereign lord the king, and that therefore he ought to follow the certainty rather than stick in the uncertainty. But this More thought both too subtle and too simple, since it would enable the king to dissolve all doubts. And again, it was put to him that he might err, and that it would be safer to conform to parliament, "the great counsail of the realm"; but he answered, "I have, as I think, I have upon my part as great a counsail and a greater too; I am not then bound to change my conscience, and conform it to the counsail of one realm, against the general counsail of Christendom". Whereat Cromwell<sup>1</sup> swore a great oath he had sooner his own son was beheaded than that More had refused the oath, for now the king would conceive a great suspicion against him, and think that the matter of the Nun of Canterbury was all contrived by his drift. More's last word was that he was willing to swear to the succession and that he neither had nor would put any scruple into any man's head.

Cranmer<sup>2</sup> (17 April 1534) advised that this offer had better be accepted, since there were some people who could not be persuaded against the Aragon marriage or the bishop of Rome's authority but who might be brought by Fisher and More's example to accept the Boleyn succession: Cromwell replied<sup>3</sup> that the king did not agree, since "it might be taken

opinion and refers to Pollock C.B. in *Salkeld v. Johnson* (1848) and Christian L.J. in *Davies v. Kennedy* (1869), adding that the modern notion is that the preamble should be disregarded when the enactment is clear but, if not, light is to be sought from the preamble.

<sup>1</sup> "As he that tenderly favoureth me", wrote More to his daughter, *Works*, p. 1430.

<sup>2</sup> *L. and P.* vii, no. 499.

<sup>3</sup> No. 500.

as a confirmation of the bishop of Rome's authority and a reprobation of the king's second marriage". Those were the two things on which they could admit no compromise, about them their heads were quite clear, even if their hearts were dark.

Apart from More and Fisher there was wonderfully little opposition to the repudiation of Rome, however much it may have been grudged at. Cranmer had "begun to exercise his anti-papality":<sup>1</sup> he made a visitation of his own diocese, and then of Norwich, and in April 1534 began a metropolitanical visitation of the southern province,<sup>2</sup> to which the only objections seem to have been inspired by the natural jealousy of some of his suffragans, and their excessive respect for the regality.<sup>3</sup> Cranmer forbade any one to preach without his licence;<sup>4</sup> and even the duly licensed were forbidden to omit from the bidding prayer "Henry VIII being immediately next unto God the only and supreme head of this catholic church of England, and . . . Anne his wife, and . . . Elizabeth daughter and heir to them both, our princess"; or to argue either for or against purgatory, honouring of saints, clerical marriage, justification by faith, pilgrimages, and miracles; or to "make men believe that the force of man's law and God's law is like"; or to speak of such matters as touch the prince's laws or succession. Various prelates and both universities, like convocation, protested that the pope had no greater jurisdiction than any other foreign bishop.<sup>5</sup> The great mass of the clergy, secular and regular, and almost all the laity, accepted the Succession Act oath,<sup>6</sup> to tender which to religious houses visitors were

<sup>1</sup> The phrase is Chapuys' (23 April, VII, no. 530), referring to Cranmer's "making the bulls and despatch of three bishoprics".

<sup>2</sup> *L. and P.* VII, nos. 589 (7), 876, how the visitation was to obtain from every one in order a repudiation of papal authority.

<sup>3</sup> VII, no. 1044, Lincoln's protest that his submission is not in derogation of the king or in recognition of the archbishop's jurisdiction further than he is bound by law: Gardiner complained that he had recently been visited by Warham, and that Cranmer's use of the title *primate* was against the prerogative: London cavilled at *legatus natus*: but the king supported Cranmer in both cases, as also against an attack on his Court of Audience, as dependent on his legatine authority; A. F. Pollard, *Cranmer*, p. 95: cf. Cranmer (on Gardiner), *Letters*, p. 304.

<sup>4</sup> VII, nos. 463, 465: cf. also nos. 750, 751, and Pocock's *Burnet*, VI, no. 29.

<sup>5</sup> Lathbury's Collier, IX, pp. 108, 110: Oxford did so more than once, *L. and P.* VII, no. 1148.

<sup>6</sup> 13 April 1534, VII, no. 587 (18).

appointed by the king.<sup>1</sup> Almost every persuasion short of actual force was used in vain endeavours to make Catharine and Mary conform.<sup>2</sup> Nor was smaller game neglected; the king's influence was invoked to secure the election of suitable proctors at Oxford.<sup>3</sup> And all the time Cromwell's power increased,<sup>4</sup> and every one else's dwindled.

His plans are very well indicated by a paper of "remembrances"<sup>5</sup> drawn up this spring—the French king, explaining the statutes to him: "To appoint the most assured and substantial gentlemen in every shire<sup>6</sup> to be sworn of the King's Council, with orders to apprehend all who speak or preach in favour of the Pope's authority. To have substantial persons in every good town to discover all who speak or preach thus. To have the act of the succession openly proclaimed." Beacons, fortresses, munitions, ships. Preachers. Catharine and Mary. "A deputy to be sent into Ireland with all speed to set a stay there". Wales. The Scotch ambassador. General musters to be made through the realm, "if it is the king's pleasure".

These varied reminders were all parts of one single intention. The great experiment was not one which could be tried *in vacuo*. Foreign policy was part of it too, to try to make peace with the Scots,<sup>7</sup> to keep peace with the emperor, to keep the alliance with France,<sup>8</sup> to make an alliance with the northern powers.<sup>9</sup> Not all of these things were done, but what with one and another the degree of success was enough to

<sup>1</sup> Cf. *L. and P.* VII, nos. 518 (the commission for Sussex), 530 (how one of Mary's maids had to be intimidated), 610 (how the oath was going well at Winchester, but it took time), 665, 921, 1024, 1025, 1121, 1216, 1347, 1594 (list of persons, colleges, and religious houses who took it).

<sup>2</sup> VII, nos. 373, 382, 393, 530, 726, 1129, 1193, 1209, 1554: it is fair to note that all the specific charges of cruelty are in Chapuys' letters, though I do not mean to insinuate that they were not brutally treated.

<sup>3</sup> VII, no. 524.

<sup>4</sup> E.g. on April 15 he became secretary (the first layman to do so) *vice* Gardiner, VII, no. 483.

<sup>5</sup> VII, no. 420.

<sup>6</sup> Cf. above, p. 215.

<sup>7</sup> It was made in May, and ratified in June, to last for the lives of the two kings and one year longer (VII, nos. 647, 911): no. 1350, Lord William Howard's mission, to suggest James's presence at the projected meeting between Henry and Francis, to offer him the Garter (he already had the Golden Fleece), and to get him to withdraw his subjects who were helping the Irish rebels.

<sup>8</sup> VII, nos. 1400, 1416, 1427, 1428, 1437, 1507, 1554, and especially no. 1483, for the French negotiations.

<sup>9</sup> Cf. P. Friedmann, *Anne Boleyn*, II, pp. 20 ff.

leave the English government undisturbed by foreign pressure. Domestic outbreaks, waiting on foreign help, were eluded too: but they were not to be eluded for ever, and some attention to the genesis of them is worth while, for the light which it throws on the inter-connection of all that government did and suffered at this time.

Danger was always threatening from the marches, and the more from those of the west, as Scotland was more to be dreaded than Wales or even Ireland. In May 1534 Lord Dacre was suddenly dismissed from being warden of the West March, his goods inventoried, and himself thrown into the Tower:<sup>1</sup> in June he was indicted by a grand jury before a special commission for having made treasonable alliances with the Scots, especially "to the intent that Sir William Musgrave constable of Bow Castle and all his tenants might be slain":<sup>2</sup> the charges were set forth in detail, and were supported by the earls of Northumberland, Westmorland, and Cumberland. The ambitious had begun already to intrigue for Dacre's lands<sup>3</sup> when on July 9 he was arraigned before a court of twenty-one peers<sup>4</sup> selected by the duke of Norfolk as high steward: nevertheless he was unanimously acquitted,<sup>5</sup> "which (said Chapuys)<sup>6</sup> is one of the most novel things that have been heard of for a hundred years, for no one ever knew a man come to the point he had and escape. And there was never seen for one day such universal joy in this city as there was at this liberation":<sup>7</sup> the reason for it, he thought, being the feeling among the peers that if such noble blood as Dacre's were struck at there was no knowing who would be safe.<sup>8</sup> At any rate it was made clear then, and is clear now, that Henry was

<sup>1</sup> *L. and P.* VII, p. xlii: it was at about the same time that the Carthusian priors were put in the Tower.

<sup>2</sup> VII, no. 962.

<sup>3</sup> VII, no. 895, 28 June.

<sup>4</sup> The most junior, who would have to give his verdict first, was Mordaunt (no. 962) who was "in great debt to the king" (no. 884, June 26).

<sup>5</sup> VII, no. 1013.

<sup>6</sup> *L. and P.* VII, no. 1013, p. 389.

<sup>7</sup> According to Chapuys it was by no means complete, Dacre being kept in custody and his offices and moveables forfeited: Chapuys says that he spoke in his own defence for seven hours: Friedmann (*Anne Boleyn*, II, p. 12) says, without giving any authority, he "offered a brief defence".

<sup>8</sup> But certainly Westmorland at least had been overjoyed to be employed against him (VII, no. 687) and Hall's testimony that "the commons exceedingly joyed and rejoiced of the acquittal" is an argument both against this aristocratic explanation and against the explanation that Dacre's talisman was his sympathy with the old ecclesiastical order.

dependent on a few great lords for the government of his northern counties and the defence of his northern frontier, and that a government prosecution for a political crime, even when supported by more than one feudal vendetta, was not inevitably successful. Nor was it in the far north only that government was dependent on the active approval of subjects, and force on the side of law only when it chose: the men of Newark were so disposed to riot that their bishop's servant could hardly live safe among them, and some thought (the bishop said) that three justices of the peace were "bearers for their tenants in this matter".<sup>1</sup> For understanding how much Tudor government depended on consent such facts are as helpful as a mass of discussion about the sense in which parliament was representative or elections corrupt. This was well understood at the time: the most dangerous threat to Henry's achievement was the organisation of English discontent under imperial guidance and with assistance from Scotland, Wales, and Ireland. The last was always the most easily excited, and as early as 1529 the emperor had sent a mission to induce the earl of Desmond to rebel. From the beginning of 1534<sup>2</sup> the imperial ambassador was busy telling his master how discontented the English were, but especially how "the earl of Kildare, governor of Ireland, has gone to Scotland, which will be a great blow to the king, as he has no subject who can do him more service or displeasure", and he reported a rumour that Kildare was ready to rebel, and a little later<sup>3</sup> "that if the pope were to send someone to Ireland, or the censures of his holiness were duly executed and published, there would be some commotion, for they hold themselves entirely subject to the apostolic see".

Hardly less serviceable were the Scots: they made peace with England indeed, but "if any mandate came from the pope against the English" they would make no difficulty in obeying it, "although they might first make some shows and grimaces to dissemble with them".<sup>4</sup> In

<sup>1</sup> *L. and P.* VII, no. 960, 8 July, 1534: cf. no. 1589 for riots by Dacre's servants on Dec. 26.

<sup>2</sup> Cf. VII, nos. 83, 121: in the second of these Chapuys does rather contradict himself by saying, "I do all I can to make the people devoted to your majesty and the queen, but the times are so bad that I cannot do the service I should wish".

<sup>3</sup> 22 April, VII, no. 530.

<sup>4</sup> VII, no. 690 (p. 268), 19 May 1534.

June 1534 the university of Salamanca disputed before Charles V *Whether it was lawful for a Christian prince to avenge by war injustice to a friend*, and decided that it was.<sup>1</sup> Early in August Charles's representative in Venice, "sure that the emperor wishes to remedy the injustice done to his aunt",<sup>2</sup> expounded to him the valuable qualities of Reginald Pole—blood royal, learning and virtue, right thinking about the divorce, the devotion of all Wales and of such great families as Buckingham, Abergavenny, Warwick, Salisbury;<sup>3</sup> "the emperor with such an instrument will be able to prevail in his affairs with England without much fighting or bloodshed". In September<sup>4</sup> Lord Hussey assured Chapuys that almost every one would welcome imperial intervention and that he "ought first of all to make the said war, which might at once remedy everything, by the insurrection of the people, who would be joined immediately by the nobility and the clergy also, which is powerful and half in disorder"; and Lord Darcy said that the government was so outrageous no loyalty could stand it, and that in the north he knew well there were sixteen hundred, earls and other great gentlemen, of his opinion, and Northumberland almost alone against it;<sup>5</sup> he would raise the banner of the crucifix together with the emperor's, would bring eight thousand men of his own and his friends, would be joined by Derby and Dacre, and required from Charles only a little money, a few arquebus men for the north and a small force in the mouth of the Thames. At the beginning of November<sup>6</sup> Chapuys reminded his master that he himself, a year before, had first suggested the Pole<sup>7</sup> project, and that indeed many respectable people thought

<sup>1</sup> *L. and P.* VII, no. 945.

<sup>2</sup> VII, no. 1040.

<sup>3</sup> Of which the two last alone, it was said, could put 20,000 men into the field.

<sup>4</sup> Reported by Chapuys on the 30th, VII, no. 1206: a week earlier several lords and ladies had made him similar communications, Friedmann, II, p. 29.

<sup>5</sup> By the end of the year, according to Chapuys, Northumberland was very indignant at the arrogance of Anne Boleyn, and was saying that the whole country was so discontented that the smallest effort by the emperor would ruin the king: VIII, no. 1. A few days later Lord Sands, the king's chamberlain and captain of Guisnes, was inviting imperial intervention (no. 48).

<sup>6</sup> VII, no. 1368.

<sup>7</sup> Apparently the government did not yet regard Pole as a total loss: on 15 Feb. 1535 T. Starkey was to write to him explaining that the king had withdrawn only from the Pope's authority, the laws and ceremonies of the church were not altered, and would not be till King and Council thought expedient to substitute others more agreeable to the time, VIII, no. 218.



the true title to the kingdom belonged to the Clarence line: there was no one to whom Catharine would rather see Mary married (Mary had promised not to marry any one without her mother's, and if possible the emperor's, consent);<sup>1</sup> Wales was certainly devoted to him, and the loyalty of Cheshire and Lancashire so doubtful that the government had not dared to seek in those counties recruits for the Irish campaign;<sup>2</sup> Pole's younger brother was with Chapuys as often as he dared; on the arrival of Pole and the smallest army "everybody would declare himself for you".

Chapuys could not understand how Henry had the courage to go on, as he did, with his policy quite undisturbed: in his dispatch<sup>3</sup> of 19 December 1534, after reporting Cromwell's boasts about the web he was weaving round the emperor and about the "example of the Turk who, he says, may well be called King and Prince, for the absolute authority he exercises", he added,

The distress of the people is incredible, and the anxiety they have to declare themselves, especially the Welsh, from whom by act of parliament the king has just taken away their native laws customs and privileges, which is the very thing they can endure least patiently. I wonder how the king dared to do it during these troubles in Ireland, except that God wishes so to blind him.

The troubles in Ireland were real enough, the heir of the Fitzgeralds in arms,<sup>4</sup> declaring his allegiance to pope and emperor and boasting of the support he was getting and would get from the empire and from Scotland, murdering the archbishop of Dublin and all the English he could find, joined by almost every one of importance in Ireland, over-running the whole country except Dublin and Waterford.<sup>5</sup> Skeffington,

<sup>1</sup> *L. and P.* VII, no. 121.

<sup>2</sup> Chapuys explained also in this letter that Henry hoped Charles would be kept busy by Barbarossa; that he was annoyed at the election of Paul III, having hoped for a schism; that he was enlisting Dutch arquebus men and gunners for Ireland; that Chapuys had not been able to see Cromwell lately, he was so busy with the coinage and other matters.

<sup>3</sup> VII, no. 1554.

<sup>4</sup> From early in May 1534, VII, no. 681.

<sup>5</sup> VII, end of preface, and nos. 915, 957, 1057, 1095, 1141. There is an instance of Chapuys' ambassadorial lack of proportion where he speaks of the importance of Ireland, "considering its vicinity to Wales, which forms the chief strength of England" (no. 915). Cf. above, p. 213 n. 3.

who was sent to restore order, did not arrive till towards the end of October 1534, and was beginning to get the situation in hand only in the following spring.<sup>1</sup> Nevertheless the Irish outbreak failed to set off the explosive elements in Great Britain or to tempt the emperor into the open, and it failed completely to shake Henry's decision. The death of Clement VII<sup>2</sup> was not known in England till October 11, but a few days before, on the news of its imminence,

The honest men among the king's council believed that when there was a new pope the king would resume his obedience to the church, but. . . when the duke of Norfolk and the marquis suggested that, like a Catholic prince, he would make no difficulty in obeying the new pope, he answered that no one should mock him by advising such a thing, for he would have no greater regard for any pope in the world that might be chosen than for the meanest priest of his kingdom.<sup>3</sup>

Nor did the evident waning of Henry's passion for Anne<sup>4</sup> cause any alteration of the policy identified with her name. The last two months of the year were filled with antipapal statutes and other measures of the same tendency; for instance, the archbishop of Canterbury's order that henceforth his style should be *metropolitanus* and not *Apostolicae Sedis legatus*.

The second parliamentary session of 1534, which began on November 3, was occupied almost wholly in supplementing the ecclesiastical acts of the previous session, and in erecting order in Wales and Ireland. The characteristic of the ecclesiastical statutes is their own insistence that they are confirmatory, that they do not innovate. "Albeit the king's majesty justly and rightfully is and ought to be the supreme head or the Church of England and so is recognised by the clergy of this realm in their Convocations"; so begins the Supremacy Act,<sup>5</sup> incidentally omitting the clergy's reservation about the law of Christ, and it goes

<sup>1</sup> It was in August 1535 that Thomas Fitzgerald, earl of Kildare since his father's death the previous September, surrendered: he and his uncles were executed in February 1537.

<sup>2</sup> Sept. 1534: there was great joy in Rome at his death and at the election of Farnese (Paul III): Clement's tomb was broken and his corpse stabbed: *L. and P.* VII, no. 1262.

<sup>3</sup> VII, no. 1257, Chapuys to Charles V, 13 Oct.

<sup>4</sup> E.g. VII, no. 1193.

<sup>5</sup> 26 H. VIII c. 1, printed by Gee and Hardy, p. 243.

on to enact "for corroboration and confirmation" that Henry and any successor "shall be taken accepted and reputed the only supreme head in earth of the Church of England", with all honours, jurisdiction and profits thereto appertaining and with "full power and authority from time to time to visit...restrain and amend all such errors heresies abuses offences contempts and enormities, whatsoever they be, which by any manner spiritual authority or jurisdiction ought or may lawfully be...restrained or amended...".

So declaratory was this statute that it said nothing about penalties, assuming that there was already in existence coercive force enough to make it respected. In this the next chapter, the Second Act of Succession,<sup>1</sup> resembled it, though its final clause did facilitate punishment by dispensing with an indicting jury where the commissioners for receiving the oath certified that it had been refused, and by confirming the form of oath that had been employed: "Where...in the act... for the establishment of the succession...it is contained...that all and singular the king's subjects...should make and take a corporal oath" for keeping "the whole effects and contents of the said act", accordingly the oath taken by members of parliament at the last prorogation<sup>2</sup> was set forth and was declared to be the very oath intended by "the king's highness, the lords spiritual and temporal, and the commons".

The act<sup>3</sup> for payment to the king of ecclesiastical first-fruits and tenths could not so easily disclaim novelty, but it did everything possible to wrap itself in a respectable antiquity: "Forasmuch as it is and of very duty ought to be the natural inclination of all good people like most

<sup>1</sup> 26 H. VIII c. 2, printed by Gee and Hardy, p. 244.

<sup>2</sup> Practically as printed in *L.J.* 1, p. 82 and, with omissions, above, p. 235.

<sup>3</sup> 26 H. VIII c. 3; 26 H. VIII c. 31 and c. 17 forbade the clergy to make their lessees responsible for these payments. Cf. Dietz, p. 115, for the assessment of benefices to replace that of 1291, the expectation that the new revenue would yield £30,000 p.a., the appointment of J. Gostwike (cf. below, p. 410) as Treasurer and Receiver-General and Commissioner of First Fruits and Tenths, Henry's and Cromwell's expressed satisfaction with the position early 1535; p. 117, Cromwell considering in 1534 but dropping that November a plan for secularising all church property; Jan. 1535, considering new plans for more secularisation beginning with visitation; March, considering church jewels; later the king consulted his council about suppressing monasteries and there was at least one opponent (Herbert, pp. 424-5); early June, visitation decided on; early July, begun by Cromwell as Vicar-general.

faithful loving and obedient subjects sincerely and willingly to desire to provide not only for the public weal of their native country but also for the supportation . . . of the royal estate of their most dread benign and gracious sovereign lord, upon whom and in whom dependeth all their joy and wealth", and considering especially the merits of Henry and the expenses to which he had been put, therefore lords and commons "desire and most humbly pray that for the more surety of continuance and augmentation of his highness's royal estate, being not only now recognised (as he always indeed heretofore hath been) the only supreme head in earth . . . of the Church of England but also their most assured and undoubted natural sovereign liege lord and king", it may be enacted that Henry and his successors shall enjoy first-fruits and tenths of all spiritual promotions.

The Treasons Act<sup>1</sup> extended the penalties of the greatest crime to verbal offenders, to any who "maliciously wish will or desire by words or writing, or by craft imagine invent practise or attempt, any bodily harm" to the king, queen, or their heirs, "or to deprive them or any of them of their dignity title or name of their royal estates, or slanderously and maliciously publish and pronounce by express writing or words<sup>2</sup> that the King our Sovereign Lord should be heretic schismatic Tyrant infidel or Usurper of the Crown", or who withhold from the king any of his forts, ships, or armaments: and no offender in any kind of high treason was to be protected by sanctuary; nor by absence, for any one out of the country might be proceeded against for acts done out of the country, and deprived of the king's protection and of all his property.

"There was never more sticking at the passing of any act than at the passing"<sup>3</sup> of this one, and indeed opposition had to be bought off by two concessions, postponement of the effect of the statute until

<sup>1</sup> 26 H. VIII c. 13, printed by Gee and Hardy, p. 247.

<sup>2</sup> Cf. p. 234 above.

<sup>3</sup> Rd. Wilson (bishop Fisher's servant) reported that the bishop's brother Rob. so reported to the bishop, that he said "speaking is made high treason, which was never heard of before", and added "that they stuck at the last to have one word in the same, and that was the word *maliciously*, which, when it was put, it was not worth. . . , for they would expound the same statute themselves at their pleasure": *L. and P.* VIII, no. 856, p. 326: cf. no. 858, and P. Friedmann, *Anne Boleyn*, II, p. 46.

the following February and insertion of the word *maliciously*. Nor was this the only victory of conservatism over Cromwell's revolutionary suggestion for strengthening the royal authority; one of these suggestions was to appoint a new court of six "to call before them all persons who have violated any act of parliament made since the beginning of Henry VII's reign", and to appoint serjeants in every county who should report all such violations: they were to be called conservators of the common weal,<sup>1</sup> and were to have a seal with a plough,<sup>2</sup> two hand-cards, a hammer, and a spade:<sup>3</sup> but the project came to nothing, whether because of opposition in parliament or because on second thoughts Cromwell decided that it would be hopeless to risk it there.

The Treasons Act has been grouped with the ecclesiastical statutes as being a corollary on the royal headship: there is one more which was purely ecclesiastical, the Suffragans Act, before I come to the other two which were corollaries on the headship—the attainders of Fisher and More. 26 H. VIII c. 14<sup>4</sup> named a couple of dozen towns as qualified to be the sees of bishops suffragan, and authorised any diocesan who wanted a suffragan to choose two parsons, of whom the king should select one, who should be consecrated by the archbishop of his province. This act is a good instance of Henry's fondness for investing himself in parliamentary armour, for there seems no reason why he might not have appointed suffragans without any reference to parliament.<sup>5</sup>

The second Supremacy Act and the Treasons Act were passed, no doubt, partly in order to deprive Fisher and More of defence, and it may be believed on the other hand that the amendments inserted in the latter were intended partly for their protection. The deserts of the two were not differentiated, any more than their fates were to be, although their attitudes do not seem to have been identical, for More said that he refused the oath before it was offered to the bishop and also the bishop was content to have sworn in some other manner

<sup>1</sup> Why not public safety?

<sup>2</sup> Why not a sickle?

<sup>3</sup> *L. and P.* VII, no. 1611 (4) referred to by H. A. L. Fisher, p. 347.

<sup>4</sup> Printed by Gee and Hardy, p. 253.

<sup>5</sup> As is pointed out by A. F. Pollard, *Henry VIII*, p. 325 n. Similarly in this same session, 26 H. VIII c. 10, authorising Henry to suspend statutes about export and import which interfered with treaties, seems to have been unnecessary.

than ever he minded to do:<sup>1</sup> More's claim was that "no man is bound to swear that every law is well made<sup>2</sup> [which was the point where *maliciously* would help him, on the ground that if he had used words against the king it was not of malice but on invitation] nor bound to perform under pain of God's displeasure any point of the law which is indeed unlawful",<sup>3</sup> and he supposed "no one doubts that such may be made in any part of Christendom, the General Council of the whole body of Christendom excepted, which the Spirit of God that governs the Church never has nor will suffer to institute any thing that might not lawfully be performed". So he told his daughter, and she "reminded him that Mr Secretary sent him word that the parliament lasted yet". A little later<sup>4</sup> he wrote to her that he had heard a rumour "that his obstinate refusing will drive the king to make a further law". He did not think "God would suffer so gracious a prince and so many honourable men as are in parliament to make such an unlawful law".

These hopes did not prevent the new succession and treason acts, nor was parliamentary sympathy with More strong enough to resist the bills<sup>5</sup> by which he and Fisher<sup>6</sup> were attainted of misprision of treason: the act against More began by reciting Henry's bounties to him and, very unfairly, how "since the first day of May last past unnaturally and contrary to his duty of allegiance intending to sow and make sedition murmur and grudge" he had refused the oath "ordained to be accepted of every subject of this realm for the surety and establishment of the succession of our said sovereign lord in the imperial crown of this realm": accordingly it revoked the said bounties and enacted that More had committed misprision of treason and must suffer imprisonment and lack of goods. More was left hopeless and his family destitute.<sup>7</sup>

With such an example of favour's vicissitudes, with the extraordinary

<sup>1</sup> *L. and P.* VII, no. 1114, p. 431, or *English Works*, p. 1437.

<sup>2</sup> But More wrote to Nic. Wilson: "No man knows the causes why he has refused the oath; they are secret in his own conscience and perhaps different to what others would think"; VII, no. 1116.

<sup>3</sup> Note how like this claim is to the seventeenth-century form of passive obedience.

<sup>4</sup> *L. and P.* VII, no. 1118.

<sup>5</sup> 26 H. VIII cc. 22, 23.

<sup>6</sup> And five other priests.

<sup>7</sup> Cf. their petition (? Dec.), *L. and P.* VII, no. 1591.

extent of Kildare's attainder<sup>1</sup> covering all abettors past and future, unnamed, "as though they . . . had been specially singularly and particularly named", and perhaps with some thought of Cromwell's projected new court, parliament gratefully accepted an act of general pardon;<sup>2</sup> by this "The king's most royal majesty, prudently considering that albeit his highness . . . manifold times heretofore . . . hath granted his most gracious free and general pardon to all and singular his subjects", thus forgoing inestimable treasure in the hope "by his often remission pardon and mercy . . . to allure offenders from vice to virtue", and considering also that since his last pardon they had again incurred innumerable penalties, much more than they could pay, yet hoping for the best "and perceiving also the great zeal and affection which his loving subjects bear unto him and his dignity royal as by many ways in this present parliament they have declared and shewed", accordingly he forgave "by authority of this present parliament" to every one of his subjects, individual or corporate, every offence or penalty down to 3 November 1534, "which may be or can be by his highness in any wise or by any means pardoned", except treason, murder, sacrilege, robbery,<sup>3</sup> arson, rape, outlawry, convictions before ordinaries, intrusions, recognisances above £20, and so on. The exceptions are considerable, but still the pardon was some return for parliament's complaisance, and especially for the subsidy act,<sup>4</sup> granting one whole fifteenth and tenth payable at All Saints 1537, and also a shilling in the pound on the yearly value of lands above £20 and a shilling in the pound on chattels above £20.<sup>5</sup>

There was another achievement of this year 1534 which illustrated the determination and sufficiency of the government, the reorganisation of Welsh administration.<sup>6</sup> This last had the eternal marks of emergency

<sup>1</sup> 26 H. VIII c. 25; cf. below, p. 292 the later attainder 28 c. 17.

<sup>2</sup> 26 H. VIII c. 18.

<sup>3</sup> Of more than 20s.

<sup>4</sup> 26 H. VIII c. 19: the collectors were to be appointed by members of parliament.

<sup>5</sup> Payable half 6 Nov. 1535, half Nov. 1536: aliens and corporations to pay double. The king was to appoint commissioners who were to send their precepts to constables etc. to make assessments.

<sup>6</sup> Cf. p. 32 above. Cromwell was also busy at and around this date about the coinage, whose debasement, begun by Wolsey, ceased in his time and became rapid after his death: Merriman, I, p. 135, and for Thomas Cromwell's energies against coiners etc., his references to *L. and P.* VII, no. 1304; IX, nos. 144, 183; X, no. 1170; XII (II), no. 1151.

rules for disturbed areas—penalties against movement after dark,<sup>1</sup> against carrying of weapons, against large assemblies:<sup>2</sup> it had also the character of sixteenth-century policy and especially of Tudor policy, the subordination of all rules and authority to the central authority and of all interests to the public interest, which was also the royal interest. That summer Rowland Lee had become bishop of Chester and lord president of the council in the Marches of Wales. He and his helpers, in the words of their Elizabethan panegyrist,<sup>3</sup>

spent their whole time in travelling yearly either through Wales or a great part of the same in causes touching civil government, and by that travel knew the people and found their disposition, favoured and preferred to office in their countries such, how mean of living soever they were, as they found diligent and willing to serve in discovering and trying out of offence and offenders. They likewise deforced and discountenanced others, of how great calling and possessions soever they were, being of contrary disposition. . . the very fear of punishment rather than the desire or love that the people had to change their welshry wrought first in them the obedience they now be grown into. Then was this council and their proceedings as much feared revered and had in estimation of the Welsh as at this day the Star Chamber of the English.

This is eulogy, and eulogy from a distance, but it is just: certainly, at least, Rowland Lee's government did largely, decisively, reduce the amount of crime, especially of thieving, in Wales. This was done at the same time at which England was being carried over her greatest constitutional and almost her greatest economic crisis, and it was while the constitutional crisis was at its very height that the rules were made under which it was done; jurors were to be supervised by a special officer and, in case they acquitted in the teeth of the evidence, to be punished by the president and council;<sup>4</sup> English justices might issue process into Wales and offenders in that country be tried in the nearest English county;<sup>5</sup> and assaults by Welshmen were to be punished with a year's imprisonment.<sup>6</sup> The system was completed in the last session

<sup>1</sup> 26 H. VIII c. 5.

<sup>2</sup> 26 H. VIII c. 6, s. 4, 5. For later Welsh statutes cf. below, p. 282.

<sup>3</sup> Wm. Gerrard, writing in 1575 to Walsingham, *State Papers, Dom. Eliz. CVII*, no. 10, quoted by C. A. J. Skeel, *The Council of the Marches*, p. 60.

<sup>4</sup> 26 H. VIII c. 4.

<sup>5</sup> 26 H. VIII c. 6.

<sup>6</sup> 26 H. VIII c. 11.



of this long parliament, early in 1536, by the statute 27 H. VIII<sup>1</sup> chapters 5, 7, and 26—for making of justices of peace in Wales, for purging out of the Welsh forests unreasonable customs and exactions of long time unlawfully exacted and used contrary both to the law of God and man, and finally, in consideration that “the dominion principality and country of Wales justly and righteously is and ever hath been incorporated annexed united and subject to and under the imperial crown of this realm as a very member and joint of the same”, for laws and justice to be ministered in Wales in like form as in this realm, for the whole area to be divided into counties,<sup>2</sup> for all courts to be kept in the English tongue and all officers to speak English, and for boroughs and counties to be represented in parliament: the only concessions to local feeling were provisos for the profits of certain persons, and the prospect of a commission to search for Welsh laws and customs that might be worth preserving. Perhaps such legislation could not have been made effective but for Welsh devotion to the Tudor family, a devotion which the birth of Edward<sup>3</sup> in 1537 very conveniently revived. It needed also all the authority of the Council of Wales and the efficiency of its president bishop Lee, hanging of felons, imprisonment of perverse jurors, fortifying of castles and harbours, moving of sanctuary from Chester to Stafford, and no doubt it needed all these things the more because of some grudging at the religious changes. One way and another, the Welsh legislation was made effective, to a surprising degree and with surprising celerity, so much so that Wales was a help and not a hindrance in dealing with the disorders of 1536, and that its administration was regarded as a model for the settlement of the North and of Ireland.<sup>4</sup>

But this is to anticipate: it is time now to return to chronology: the years fifteen-thirty-five and six were to be significant in politics as fifteen-thirty-four had been in law. As the Annates and Supremacy Acts had advertised the Henrican conception, so the executions of More and the Carthusians, the publication of Gardiner's *True Obedience*, the vacillations of the papacy and other foreign powers, the suppression

<sup>1</sup> S.R. III, pp. 534, 536, 563.

<sup>3</sup> Cf. Skeel, p. 66.

<sup>2</sup> This shiring took some years: Skeel, p. 73.

<sup>4</sup> For all this paragraph cf. Skeel, esp. pp. 67 ff.

of the monasteries and the failure of the Pilgrimage of Grace, indicated and defined the means by which the conception was established. Neither the nature of the opposition nor the method of dealing with it was very difficult to guess. Chapuys reported (28 January 1535) that Cromwell "did not cease to harass the bishops, even the good ones like Winchester and some others, whom he called lately before the Council to ask them if the king could not make and unmake bishops at pleasure; who were obliged to say Yes, else they should have been deprived of their dignities".<sup>1</sup>

Aristocratic opposition was growing and was increasingly inclined to accept foreign aid. Lord Darcy, Chapuys thought, had the greatest following in the kingdom, and Lord Sandys<sup>2</sup> was the best soldier: with a little money 100,000 men could be raised, and then (Darcy advised) it should be proclaimed on the part of the emperor "that they come not only for the cause of God and the queen but for the comfort of the poor oppressed people and the restoration of order and justice".<sup>3</sup> Henry complained of the emperor's having an ambassador in Ireland (though he himself was in negotiation with Lubeck and Hamburg).<sup>4</sup> The marquis of Exeter assured the imperial ambassador of his willingness, even anxiety, to shed his blood in the service of the queen and princess. Charles was willing enough to interfere in English affairs and take advantage of English goodwill—"there would be more than need, if the other affairs of Christendom permitted. . . we do not see how it is possible for the present to remedy the mischief by force, as, in truth, we have more than just cause to do".<sup>5</sup> He and his ambassador were discussing the possibility of getting Catharine and Mary<sup>6</sup> abroad, and the use to be made of Reginald Pole, nor was Henry slow to suspect the nature of their consultations:<sup>7</sup> Chapuys threatened Cromwell that

<sup>1</sup> *L. and P.* VIII, no. 121.

<sup>2</sup> Cf. p. 21 above.

<sup>3</sup> *L. and P.* VIII, no. 121.

<sup>4</sup> *L. and P.* VIII, no. 140.

<sup>5</sup> *L. and P.* VIII, no. 272, Charles V to Chapuys, 26 Feb.

<sup>6</sup> Thomas Cromwell was talking, according to Chapuys, of the blessing it would be if God were to remove them: cf. e.g. VIII, no. 556, Apr. 17.

<sup>7</sup> *L. and P.* VIII, nos. 182, 189, 263, 327, 355: in this last Chapuys speaks of Sir Wm. Kingston, constable of the Tower, as a good servant of Charles, and of Lord Bray as impatiently awaiting an insurrection. And for all this paragraph cf. P. Friedmann, *Anne Boleyn*, II, first pages of ch. XI.

Charles, bound as a good Catholic "to obey the executorials decreed in favour of the Queen", could hardly long delay the execution.<sup>1</sup>

Henry and Cromwell did not lose their nerve nor condescend to conciliation. They trusted to the money and the ships they were collecting, the brass cannon (the first ever cast in England<sup>2</sup>), the "other affairs of Christendom", the earl of Northumberland (whose abstention from sedition<sup>3</sup> was the one bright spot, or rather the promise of plenty of bright spots, in the North), to the interests which looked to their control of patronage and the fears which shuddered at their collection of information.<sup>4</sup> Norfolk and Fitzwilliam displayed Henry's new ships and his new wealth to Chapuys, and reminded him of his master's dangers from Barbarossa and from Hungary, and of the king of Scotland's acceptance of the Garter.<sup>5</sup> Negotiations were in progress for a treaty with France. Strong in these and such reliances, and others too no doubt,<sup>6</sup> they maintained their position and from it struck harder than ever.

The business of enforcing the royal supremacy was pressed on systematically. The king in his privy chamber, in the presence of his principal counsellors, ordained that his style should henceforth be "Henricus, Octavus, Dei gratia, Angliae et Franciae rex, Fidei Defensor et Dominus Hiberniae, et in Terra Supremum Caput Anglicanae Ecclesiae...".<sup>7</sup> Cromwell, already<sup>8</sup> principal secretary and master of the rolls, was commissioned as vicar-general and general visitor of churches and monasteries in January 1535 and, a year and a half later, became lord privy seal and vicegerent of the king in spirituals.<sup>9</sup> All prelates were

<sup>1</sup> *L. and P.* VIII, no. 429, p. 165.

<sup>2</sup> According to J. Stow, *The Annales, or General Chronicle of England*, p. 571.

<sup>3</sup> On Feb. 2 he wrote to Cromwell that considering the debility and unnaturalness of those of his name he had determined to make the king his heir: VIII, nos. 166, 363.

<sup>4</sup> Cf. e.g. nos. 386, 406.

<sup>5</sup> *L. and P.* VIII, no. 48.

<sup>6</sup> Perhaps a consciousness of rectitude: no doubt an opinion different from that of Chapuys about general feeling in England: and Starkey's *Dialogue* and Gardiner's *True Obedience*.

<sup>7</sup> VIII, no. 52, Jan 15.

<sup>8</sup> In 1534: from 1531-3 he had become privy councillor, master of the jewels, clerk of the hanaper, and master of the king's wards.

<sup>9</sup> In the same month he became a baron, and in Aug. 1537 K.G. Cf. VIII, nos. 73-6, esp. no. 75. Burnet (ed. Pocock), I, p. 293: cf. also Merriman, I, p. 143 and his references to Collier, Herbert, Dixon, etc.

required to surrender papal bulls and to confess that they held everything from the king.<sup>1</sup> Commissions were also issued for the valuation of all monasteries and clerical livings.<sup>2</sup> Bishops were required to renounce the jurisdiction of Rome,<sup>3</sup> and to give the king a list of vacant benefices, to which they were not to institute till he had been satisfied about the first-fruits.<sup>4</sup> A circular was issued in April 1535 for the apprehension of all priests and curates who set forth and extolled the jurisdiction and authority of the bishop of Rome,<sup>5</sup> as some were still doing.<sup>6</sup>

All these measures met with remarkably little opposition, though no doubt there was murmuring at them. What opposition and murmuring there were only persuaded Henry the more that intimidation was the way to govern. He had no doubt that that was the proper antidote for heresy: one of Cromwell's "remembrances" at the end of March was "What the king will do with the Anabaptists":<sup>7</sup> what he would do was easy to guess, and towards the end of May twenty-five of these wretched Hollanders were burnt.<sup>8</sup> There were other offenders against truth, not less dangerous even if less blasphemous, more dangerous, indeed, as more eminent, more English, more likely to find echoes in the hearts of the people. Those few who were conspicuous by their refusal to acknowledge the Royal Supremacy were

<sup>1</sup> *L. and P.* VIII, nos. 121, 174, 195: cf. Judge Rastell, printed by Chambers in *Harpfield*, p. 227 (my spelling): "The king caused all his bishops, saving the bishop of Rochester, to surrender all their Bulls to him whereby they were made bishops, and they took the king's letters Patents to be bishops only by him".

<sup>2</sup> VIII, no. 129, Jan. 30.

<sup>3</sup> No. 190, Feb. 10; no. 311, March 2; no. 494, April 4; no. 803, June 1.

<sup>4</sup> Nos. 284, 289, 307, all in Feb. For all this paragraph cf. the *Preface to L. and P.* VIII, pp. xxv, xxvi.

<sup>5</sup> No. 623, April: cf. Froude, *History of England from the Fall of Wolsey*, II, p. 246, and Strype's *Ecclesiastical Memorials*, I, App. p. 208.

<sup>6</sup> Nos. 386, 406-7, 624, 727, 990; IX, nos. 37, 84: n.b. the interest of the council.

<sup>7</sup> VIII, no. 475.

<sup>8</sup> Stow's *Chronicle*, p. 571: on the very same day Henry was writing to tell the Lubeckers how much he depended on their friendship, *L. and P.* VIII, no. 759. Cf. VIII, no. 619, Sir J. Gifford to Thos. Cromwell 30 April 1535 explaining why Walter Blount was not convicted of heresy: Gifford adds that he has "been justice of peace thirty-eight years, and six times sheriff, but was never called before the king's Council, or before any judge". He evidently thought this a very good record, and thus indirectly testified to the effectiveness of conciliar supervision.

to be made more conspicuous still by the ruthlessness of their retribution. The priors of the Carthusian<sup>1</sup> houses were the first to suffer, as they had been the first to refuse assent.<sup>2</sup> On April 20 they were summoned before Cromwell at the Rolls and asked whether they "would be content to obey the King as supreme head in earth under Christ of the Church of England, called Anglicana ecclesia, according to the statute". They could not "consent nor believe that he is so".<sup>3</sup> Accordingly they were committed to the Tower, and on 29 April 1535 they were arraigned, and condemned "as usual in high treason".<sup>4</sup>

Cranmer thought that it would "much more tend to the conversion of others to convert their consciences by sincere doctrine, and so for them to publish it, than to suffer the penalty of the law",<sup>5</sup> and had good hopes of at least two of them: but it was not to be, for on May 4 they "without respect for their Order" (that is, without the previous ceremony of degradation without which no English ecclesiastic had ever before so suffered) "were hanged with great ropes", disembowelled, beheaded, and quartered, "and while the execution was going on they preached and exhorted the bystanders with the greatest boldness to do well and obey the King in everything that was not against the honour of God and the Church".<sup>6</sup>

On the very day after the execution of the Carthusians (5 May 1535)<sup>7</sup> it was commonly reported (according to Chapuys<sup>8</sup>) that the king had summoned Fisher and More "to swear to the statutes made here against

<sup>1</sup> With a Bridgite of the monastery of Sion and the rector of Isleworth.

<sup>2</sup> Froude, II, p. 240: and see his synopsis of the whole story from the *Historia Martyrum Anglorum* of Maurice Channey (or Chauncey), a contemporary Carthusian.

<sup>3</sup> *L. and P.* VIII, no. 565.

<sup>4</sup> VIII, no. 609: according to Rastell, printed in *Harpshfeld*, p. 229, the jury was bullied by Cromwell and the judges ruled that whoever denied the Supremacy denied it *maliciously*: they were executed on May 4: three other Carthusians were executed on June 18, and 8 or 9 died in Newgate, *Harpshfeld*, pp. 179, 235.

<sup>5</sup> VIII, no. 616.

<sup>6</sup> VIII, no. 661: a report preserved in the Vatican.

<sup>7</sup> Casale, Henry's representative in Rome, told the cardinals who said they envied the Carthusians, "if that were so, they might go to England and imitate the monks' folly": VIII, no. 807, June 1. Cf. also no. 874, for the indignation with which Venice received the news.

<sup>8</sup> VIII, no. 666.

the Pope, the Queen, and the Princess". On 20 May the pope created seven cardinals, of whom one was "John bishop of Rochester, kept in prison by the king of England".<sup>1</sup> Henry no sooner heard this news than (according to Chapuys<sup>2</sup>) "he declared in anger several times that he would give him another hat, and send the head afterwards to Rome for the cardinal's hat", and the second week of June 1535 was occupied with interrogations by the council of the servants in the Tower and of Fisher and More,<sup>3</sup> and with instructions for all bishops to preach every Sunday and feast-day the king's title, and to raze out of every book the name of the bishop of Rome.<sup>4</sup> Chapuys thought the only remedy for the dreadful state of England, and that in the universal opinion a sure and easy one "provided affairs would admit of it",<sup>5</sup> would be for the emperor to prohibit English intercourse with his territories; "this a number of good and notable persons have compelled me to repeat".<sup>6</sup>

Charles's affairs did not admit of the experiment. On June 16 the justices of oyer and terminer for Middlesex<sup>7</sup> issued precept for a petty jury to try Fisher, against whom a grand jury had already found. The indictment was for having on May 7 (that is, in the Tower) openly declared in English, "The King our sovereign lord is not Supreme Head in Earth of the Church of England". The plea was *Not Guilty*: judgment as usual in high treason: <sup>8</sup> execution was at Tyburn on June 22.

<sup>1</sup> VIII, no. 752: they were a distinguished batch, including Jerome Ghinucci, John du Bellay, Gaspar Contarenus. The pope told Casale (so Chapuys reported on May 29, no. 777), that there must be at least one English cardinal and he had chosen Rochester for his learning and because "he thought he would be doing what was pleasant to the king, and providing a fit instrument for treating of" his marriage.

<sup>2</sup> VIII, no. 876, June 16. Cf. *Harpsfield*, pp. 233, 260.

<sup>3</sup> Nos. 856, 858, 867.

<sup>4</sup> A few days before Francis had told the nuncio that he had to put up with Henry, "as it is no time to lose friends", no. 837, June 6.

<sup>5</sup> No. 848, June 9, 1535.

<sup>6</sup> No. 876.

<sup>7</sup> The chancellor, four peers, Cromwell, and ten knights (all or almost all of them judges).

<sup>8</sup> No. 886. The leading member of the jury was Sir Walter Hungerford, a creature of Cromwell's and later his companion on the scaffold. It seems clear that Fisher had been tricked by Rich, solicitor-general, coming to him in the Tower (with an assurance that Henry wanted his real opinion and that it should not go to anyone else nor be used against him) into saying that the king was not nor could be by the Law of God supreme head: he did not deny having used the words, but denied having used them *maliciously*: Rastell, printed in *Harpsfield*, pp. 231-40 and notes pp. 362-8.

"The regret and compassion of the people were inconceivable."<sup>1</sup> Three days later the king was uncontrollably amused at a dramatic interpretation of part of the Apocalypse, in which he himself was represented cutting off the heads of the clergy. "Some think [Chapuis reported<sup>2</sup>] that if commerce was forbidden by virtue of the executorials,<sup>3</sup> the people would rise and put things right themselves, especially during this distrust of France. Already they begin to murmur, because ever since these executions began it has rained continually, and they say it is the vengeance of God."

On June 26 a true bill was found against Sir Thomas More: he was charged<sup>4</sup> under the Supremacy Act (26 H. VIII c. 1), by which the king had been accepted as Supreme Head, and the Treasons Act (26 H. VIII c. 13), which made it high treason maliciously to say or write anything to the diminution of the royal title: the main part of the indictment was that being examined on 7 May 1535 before Thomas Cromwell principal secretary, Thomas Bedyll clerk, and John Tregonell LL.D., counsellors of the king, and others, whether he took the king for Supreme Head, he maliciously kept silence, would not answer directly, and said "I will not meddle with any such matters": correspondence and collusion with Fisher were also alleged, and a certain conversation with Richard Rich, solicitor-general. This last is interesting: what was said is not exactly known, for More took exception to Rich's account. Roper<sup>5</sup> reports the conversation thus:

<sup>1</sup> Chapuis to Charles, *L. and P.* VIII, June 30, no. 948.

<sup>2</sup> To Granvelle, June 30, no. 949.

<sup>3</sup> Papal authorisation of physical action against Henry: cf. pp. 210, 244, 245, 255 above, 268 below.

<sup>4</sup> See the indictment printed in *Harpfield*, pp. 269 ff.: cf. *L. and P.* VIII, no. 974.

<sup>5</sup> *Life of More* (ed. J. R. Lumby), pp. xlv ff.: Roper was the husband of More's favourite daughter Margaret. For More's trial and death cf. also Castelnau's *Memoirs*, I, p. 415 (ed. 1731, Brussels), translated in *L. and P.* VIII, no. 996: *Harpfield*, pp. 258-66, prints the original *Paris News Letter*. Some points in the account of the Rich conversation given by the indictment (*Harpfield*, pp. 269 ff.) are worth noting—More said he would be obliged to accept Rich as king by act of parliament because he could give his consent to it: then he put the case of parliament enacting that God was not God, and Rich answered *Quia impossibile est fiendum quod deus non erat deus*, and went on to put the case of Supremacy, to which More replied that it was not like title to the throne, "Because a King can be made by parliament and deprived by parliament, to which act every subject being present at parliament may give consent, but to the case of Supremacy the subject cannot be

Admit there were, sir (quoth Rich) an Act of Parliament that all the Realm should take me for the King, would not you take me for the King?" "Yes, sir, (quoth Sir Thomas More) that would I." "I put the case further (quoth Mr Rich) that there were an Act of Parliament that all the Realm should take me for the Pope; would then not you, Mr More, take me for the Pope?" "For answer (quoth Sir Thomas More), to your first case, the Parliament may well meddle with the state of temporal Princes; but to make answer to your second case, I will put you this case, Suppose the Parliament would make a Law that God should not be God, would you then, Mr Rich, say God were not God?" "No, sir, (quoth he) that would I not, since no Parliament may make any such Law." "No more (said Sir Thomas More, as Mr Rich reported of him) could the Parliament make the King supreme head of the Church."

More argued the superiority of his own credibility over Rich's, and also the necessity of proving *malice*<sup>1</sup> and asserted that he had never denied but only been silent:<sup>2</sup> but, the jury<sup>3</sup> having found him guilty, the chancellor was proceeding (1 July 1535) to judgment when More reminded him of the prisoner's right to show cause why judgment should not be given: his claim having been granted, he said that being certain to be condemned he would now discharge his conscience by speaking plainly about his indictment and the statute, and he proceeded to argue that the indictment was grounded upon an act of parliament oppugnant to the laws of God and His Church and to statutes unrepealed, "as they might evidently perceive in *Magna Carta*, *Quod Ecclesia Anglicana libera sit et habeat omnia jura sua integra, et libertates suas illaesas*, and contrary to that sacred oath which the King's Highness himself, and

obliged because his consent cannot be given by him at the parliament, and although the King be accepted in England, yet very many foreign parts do not affirm the same thing": my translation from *Harpsfield*, pp. 274-6: there is also a translation in *L. and P.* VIII, no. 974. After the indictment More was offered pardon for recantation (*Paris News Letter*).

<sup>1</sup> In *re* Fisher the judges had decided (according to Rastell, printed in *Harpsfield*, p. 239) that "the word maliciously in the statute was of none effect, for that none could speak against the king's supremacy by any manner of means but that the speaking against it was treason".

<sup>2</sup> *Paris News Letter* in *Harpsfield*, p. 260.

<sup>3</sup> One of them was John Parnell, perhaps the same who had unsuccessfully petitioned against More (who was thereupon called before the whole counsaile) for taking bribes as chancellor: *Harpsfield*, pp. 153, 192, following Roper: cf. p. 222 above.



every other Christian prince always at their coronations received", alleging also the special obligation of England to Rome as having been converted from thence.<sup>1</sup> The chancellor reminded him that the bishops, universities and learned men were agreed against him: to which More replied that he did not "doubt but that, though not in this realm, yet in Christendom about they be not the least part that be of my mind therein. But if I should speak of those that be already dead<sup>2</sup> (of whom many be now saints in heaven), I am very sure it is far the greater part of them, that all the while they lived, thought in this way that I think now". For one parliament of yours, More added, "and God knows what manner of parliament, I have all the general councils for the last thousand years; and for one realm, I have France and all the other realms of christendom".<sup>3</sup> Then the duke of Norfolk said, "Now, More, we plainly perceive your malice". But More appealed to God that he spoke only to clear his conscience, and went on to say that the statute was ill-made, for they had sworn to do nothing against the church, which is one, and they alone had no authority, without the consent of the other Christians, to make law or act against its union: he knew, he said, why he had been condemned—because he had refused before to consent in the matter of the king's marriage.<sup>4</sup>

The chancellor, loth to bear the sole responsibility for dealing with More's exceptions to the indictment, asked the advice of the lord chief justice of the king's bench, joined in commission with him. Fitz-James

<sup>1</sup> Roper, p. 1.

<sup>2</sup> Cf. E. Burke, *Reflections on the Revolution in France* (4th edn., 1790), pp. 143-4, "as the ends of such a partnership [as constitutes society] cannot be obtained in many generations, it becomes a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born". Cf. p. 240 above, More saying he was not bound to adjust his conscience to the counsail of one realm against the general counsail of Christendom. According to the *Paris News Letter* More had said, before Audley interrupted him, that he had vainly searched ten years for a doctor of the church who thought that a temporal man could or should be chief of the spirituality.

<sup>3</sup> Cf. *Works*, pp. 1452-4.

<sup>4</sup> For these three sentences, cf. the *Paris News Letter* (*Harpsfield*, p. 264): and Roper, p. 1, how "this realm, being but one member and small part of the Church, might not make a particular law dischargeable with the general Law of Christ's holy Catholic church, no more than the City of London... might make a Law against an Act of Parliament to bind the whole realm unto".

"like a wise man answered, 'My Lords all, by St Julian, I must needs confess, that if the Act of Parliament be not unlawful, then is not the Indictment in my conscience insufficient'. Whereupon the lord chancellor said to the rest of the lords, 'Lo, my Lords, you hear what my Lord Chief Justice saith', and so immediately gave the judgment against him", as usual in high treason: execution at Tyburn. On 6 July 1535, the Vigil of St Thomas and the Utas of St Peter, "a day very meet and convenient for him", Sir Thomas More was executed.

More made no funeral oration, having been warned of the king's wish that he should not "use many words" and being besides "much beholden . . . to his grace, that unto my poor burial vouchsafeth to have so gracious consideration", as to permit the attendance of his friends and relatives: he mounted the scaffold with a jocular consolation to his gaoler, and took his place on it with another to his executioner, he asked those present to pray God for him, and he would do the same for them in the other world. He then besought them earnestly to pray to God to give the king good counsellors, protesting that he died his faithful servant, but God's first.<sup>1</sup> "So passed Sir Thomas More out of this world to God upon the very same day which himself had most desired",<sup>2</sup> and left nothing behind him but a great name.<sup>3</sup>

Of that name's greatness no doubt was felt at the time: the emperor, if he "had been master of such a servant, . . . would rather have lost the best city of his dominions, than have lost such a worthy counsellor".<sup>4</sup> The king of France, convinced already by Fisher's death that Henry was given up to perdition and that it was impossible to have friendship with him, after More's execution spoke of Henry's iniquity "as clearly

<sup>1</sup> *L. and P.* VIII, no. 996.

<sup>2</sup> Roper, p. lv.

<sup>3</sup> And the lands he had conveyed to the Ropers, because the conveyance had been absolute: his other conveyances, though they also were made before the passing of the statute on which he was attainted, contained reservations for the term of his life, and were voided by statute, "contrary to the order of Law": Roper, p. xliii. Roper continued to the end of the reign on commissions of the peace, sewers, etc., and drawing an annuity from monastic lands (A. F. Pollard, quoted in *Harpsfield*, notes, p. 331 and referring to *L. and P.* for 1542, nos. 1543-6 *passim*).

<sup>4</sup> Roper, p. lv: but Roper's story as it stands won't fit dates: R. W. Chambers suggests (*Harpsfield*, notes pp. 353-5) with probability that the conversation took place early in 1532, when Charles would know that More's political fall was imminent.

as possible" and appeared to wish for an occasion to declare against him.<sup>1</sup> The pope, Casale reported,<sup>2</sup> "conceived incredible indignation. A consistory was held upon the subject and I hear on good authority that they will proceed to the utmost possible extremities against us. The pope seems a resolute man, and would sooner have seen his two grandsons slain. . . . The pope and court are in the greatest indignation about the death of Rochester; they say the curia will make more of his death than of St Thomas of Canterbury's". Europe was horrified by an account of More's trial and death, which was issued in several languages and is here cited as the *Paris News Letter*.<sup>3</sup> In Lower Germany it was "reported that Fisher's head, when fixed on London Bridge, instead of shrivelling, grew more florid and life-like, so that many expected it would speak, as we read has been the case with other martyrs. The rumour, however, was suppressed, and lest the same thing should happen with More's head it was boiled in water".<sup>4</sup>

<sup>1</sup> *L. and P.* VIII, nos. 985 (July 4) and 1141, both from the bishop of Faenza to M. Ambrogio. The former had a brilliant idea which he submitted to the curia: "Reg. Pole, a relation of the King, but of the White Rose, is at Padua. . . . If the Pope were to give him Fisher's hat, besides other advantages, it would seem to the people of England a Christian and praiseworthy revenge against the King": no. 986 (July 4), to Cardinal Palmieri.

<sup>2</sup> No. 1144, letters of July 28 and 30. Brewer translates the last phrase, "they say his death will do more for the court of Rome than that of St Thomas himself". Father T. E. Bridgett (*Blessed John Fisher*, p. 414) cites the Latin as follows: "curiam pluris facturam hujus hominis mortem quam illam S. Thomae": he complains that Brewer's version unfairly attributes selfishness to the curia. His complaint seems just, so far as Casale's report matters either way to an estimate of curial motives. In any case, whether the talk in the highest Roman circles was that they would make more of Fisher than of Becket or that Fisher would do more for them than Becket had done, the prophecy has been falsified by events. Fisher is not yet more than Blessed, nor has Henry VIII's supremacy yet suffered the degradation which Becket's corpse inflicted on Henry II's.

<sup>3</sup> VIII, no. 996; *Harpfield*, p. 258.

<sup>4</sup> No. 1096, Gulielmus Corvinus Nucerninus to Philippus Montanus, writing from Paris on July 23, "These and other things are written from Flanders, I know not how truly": he adds that he "would have liked to persuade the king to show less severity to these lights of Britain. On the other hand, if the sufferers had asked his advice he would have counselled them not openly to defy the storm". Montanus was a distinguished scholar and had been a pupil-servant of Erasmus, who left him 150 gold crowns: *Erasmii Epistolae*, ed. P. S. and H. M. Allen, VII, p. 520. About the boiling, it is the more improbable since Cromwell at least, if not Henry, may be believed to have been as realist as Mme du Deffand who, when Cardinal Polignac was enlarging on the long distance that the martyred St Denis had walked with his

That there was such a rumour, at any rate, even if it were not so horribly combated, need not be doubted. The martyred Carthusians had already performed one miracle, and another Carthusian, dead though not martyred, had come back to earth to report that they were "in great glory crowned with the palm of martyrdom": the brother to whom he made this announcement was summoned to the king's council, and after many enquiries and examinations warned with threats not to disclose it.<sup>1</sup>

This was not all the government did to combat the unfavourable impression it had made abroad, an impression which extended to some protestants.<sup>2</sup> Its case was expounded with great care and some skill. In a memorial intended principally to influence French opinion the allegation<sup>3</sup> that Francis interceded for Fisher with Henry ("of whom he knows he may obtain anything that he desires") was rebutted, and credit was taken for the "sudden stroke of a sword" (least bitter of endings) with which the bishop was dispatched. Another memorial<sup>4</sup> was designed for the German protestants, who were informed that

head in his hands, pointed out that in such cases the distance was nothing, "il n'y a que le premier pas qui coûte": and according to Rastell (*Harpfield*, p. 246) it was Fisher's head that was "somewhat parboiled" and afterwards "continued still very fresh and lively... which many of the people took for a miracle".

<sup>1</sup> M. Chauncy, *Sufferings of the XVIII Carthusians*, pp. 73, 74.

<sup>2</sup> Cf. P. Friedmann, *Anne Boleyn*, II, p. 83a; *L. and P.* VIII, p. xxxviii.

<sup>3</sup> Cf. *L. and P.* VIII, no. 1117, Paul III to Francis I, 26 July 1535, astounded to hear of Fisher's death, after having recommended him to Francis: Fisher a martyr more glorious than Becket: Henry's outrages, especially his lese-majesty by such treatment of a cardinal, involved the usual penalties, especially deprivation: Francis to be ready to execute justice. No. 1118, pamphlet in answer to this brief, complaining of the pope's attempt to use Francis, casting back the charge of cruelty at the pope, taunting the papacy with caring more for the death of a traitor than that a man should live in notorious adultery, though as to that Paul before he was pope had been on Henry's side and Francis and his councillors and universities had pronounced against the Aragon marriage, and repudiating the imputation of schism. No. 1121, Casale to Cromwell, Cardinal du Bellay condoled with him on Fisher's promotion and said Henry had promised Francis not to execute Fisher but the contrary was decided and done all in one morning: Casale said the folly of Paul's action was now generally recognised in the curia, Casale had always said Henry was not cruel and Fisher and More were condemned long before by parliament, whose statutes the king never opposed, but he had mercifully allowed delay, so that they might acknowledge their folly. Cf. VIII, no. 537, 12 April 1535, Henry's reported suggestion to Francis of the advantage of secularisation.

<sup>4</sup> Friedmann, II, p. 84.

More and Fisher, so far from suffering for adherence to evangelical doctrine, had bitterly assailed its best teachers, and More had been a fierce cruel hunter of heretics. The German princes were haughtily told not "to judge of another prince's proceedings otherwise than they would a foreign prince should judge of them".<sup>1</sup> Henry's representative at Rome was told in a letter from Cromwell that his majesty "could not sufficiently marvel that the Pope should have conceived so great offence at the deaths of the Bishop of Rochester and Sir Thomas More. And albeit his Majesty is not bound to render account of his actions except to God", nevertheless for the avoidance of slander he allowed his secretary to explain how More and Fisher had concocted upon all the urgent questions of policy "conclusions other than those which the interests of the realm did require", and had spread their seditious designs with the help of "persons on whose courage, readiness, and devotion to themselves they could depend". They were accordingly detained, but very indulgently treated, in the Tower: in spite of indulgence, however,

after that certain laws had been decreed by authority of Parliament, and had been by the whole nation admitted and accepted as expedient for the realm, they alone refused their consent . . . ; and while professing to have left all care and thought for human things, they were considering by what arguments, in furtherance of their seditious purpose, they might, to the common hurt, elude, refute, and disturb the said laws.<sup>2</sup>

Instruction was provided for English as well as foreigners, and preachers were directed to add to their championing of the royal supremacy an exposition of the treasons "of the late bishop of Rochester and Sir Thomas More".<sup>3</sup>

It is clear that if the English government thought it worth while to defend its action, at least it had no intention of making any admissions: His Majesty owed account to none but God: His Majesty's subjects could have no defence for a breach of laws decreed by His Majesty's parliaments: these principles were assumed in argument with the pope himself.

<sup>1</sup> Froude, II, p. 283, quoting from Rolls House MS.

<sup>2</sup> Froude, II, p. 286, quoting from *State Papers*, VII, p. 633.

<sup>3</sup> *L. and P.* VIII, no. 921, 25 June 1535: cf. Burnet, VI, p. 106.

The pope could hardly be convinced in theory: but he found the argument a serious obstacle to practical action all the same. Paul III was willing enough now to fulminate, but how was he to put effective weight into his thunderbolts? If it were attempted to give reality to the executorials<sup>1</sup> granted in connection with Henry's matrimonial suit, might not the result be that Catharine would go the way of Fisher? If the kingdom were declared forfeit to the pope as feudal overlord, Mary's presumptive rights would be damaged. "All courses", declared Charles's advisers, "are dangerous."<sup>2</sup> The pope wrote<sup>3</sup> to Ferdinand king of the Romans to communicate his intention of declaring Henry (who had "surpassed in impiety his ancestor Henry II") deprived of his kingdom, and to ask for Ferdinand's "assistance, together with that of his brother the emperor and other princes, in the execution of justice". To the king of France he wrote<sup>4</sup> "not doubting but that Francis is sorely grieved, seeing that his intercession would appear to have hastened the cardinal's death...defending, not the rights of a particular church, as St Thomas of Canterbury, but the truth of the universal church": he proceeded to recount Henry's crimes, culminating in this, that he hastened Fisher's "death on hearing of his creation as cardinal, thus committing the crime of lese-majesty and incurring the usual penalties, especially that of privation" of his kingdom, which was tributary to the Roman Church: "and the Roman Church has recourse to Francis, her most dear son...and earnestly implores him to bear this calmly and to be ready to execute justice on Henry when required, remembering the great armies with which his forefathers revenged her injuries".

Charles V needed but little reminding of the disadvantages involved in any encouragement of the pope to act as the king of England's feudal superior, and anyway he was busy with his expedition against Tunis. Francis was scarcely less preoccupied with Milan:<sup>5</sup> "he did not think

<sup>1</sup> Cf. pp. 209, 260 above, 268 below.

<sup>2</sup> *L. and P.* VIII, no. 1115, a memorial, in Spanish, on English affairs, preserved in the British Museum: Friedmann (II, p. 81) says it was sent to Charles by his agents at Rome.

<sup>3</sup> VIII, no. 1095, July 22: no. 1116 is a copy dated July 26.

<sup>4</sup> No. 1117.

<sup>5</sup> Cf. *L. and P.* IX, first pages of the Preface and references to the documents.

fit to be the first to declare against Henry and ruin himself alone; for the emperor, who has received the offence, ought to be the first... He advised the pope to begin by making peace between Christians".<sup>1</sup> Francis was expecting too much from the pope: the pope, also, was expecting too much from Francis and the other princes: the bull of deprivation which he printed they would do nothing to enforce,<sup>2</sup> and so he did not publish it.<sup>3</sup> Fisher and More were unavenged, and the force that had struck them down was the stronger for it.

All the force, indeed, proved to be on one side, but in defence of that side it may be remembered that no one could be sure beforehand that it would prove so; and when Becket had been destroyed by force he had gained glory in this world as well as the martyr's crown in the next; Becket's corpse became at once, and for centuries remained,<sup>4</sup> much more powerful than ever his person or his office had been: the names of More and Fisher even now, when they are further in time from us than Becket was from them, have not yet become such powerful invocations as Becket's was at once: but no one could have been sure of this at the time, and it was more natural to guess that miracles were already flowering from their blood.

To anyone who considers More and Henry, More and Cromwell, More and Audley, above all More and Rich, it is clear that More was the more pleasing character. From the twentieth century he looks more than ever admirable and attractive, especially because he was always serious and never dull, because he was most apt to sparkle into wit just when he was most courageously struggling after righteousness and truth: besides, he was a good scholar, a bold thinker, the admired friend of the best intellects of his time, and a great figure in the development of English prose: few men have died with greater nobility or inspired

<sup>1</sup> *L. and P.* ix, no. 148, August 21; no. 469, Sept. 28, Francis's sentiments still much the same: but he did try to use the executorial brief as a hold over Henry and a reason for expecting Henry's help with his Italian plans, cf. nos. 434, 548, 594, p. 198, 729 (1).

<sup>2</sup> Cf. pp. 260, 267 above, 303 below.

<sup>3</sup> T. E. Bridgett, *Life of Blessed John Fisher*, p. 418, says he was just going to when Catharine died, 7 Jan. 1536.

<sup>4</sup> For Henry's ending of the pilgrimage to it, cf. H. S. Milman in *Archaeologia*, lxxx, pp. 211-28.

more touching biographies. It does not necessarily follow that his view of the universe was true or, even if it were, that the case he made for it was logically consistent within itself or with assumptions which government might feel to be indispensable: about views of the universe there can be no dispute here, but the arguments put for them throw light upon the constitutional ideas and methods that then existed and upon what was happening to those ideas and methods.

How was it possible to believe that Elizabeth was heir of England, as parliament said, and Catharine queen of England, as the pope said? and if on this last point the pope had authority, was not more than Elizabeth's capacity to inherit concerned? could Henry's capacity to reign escape question? Either Mary was the heir or there was something defective about the papal sentence. That was a dilemma which required a great deal of explaining away, and More would not explain. From the moment when the Succession Oath was offered to him<sup>1</sup> it looked very likely that he was to be a martyr, but to exactly what cause was more problematic.

To Christianity? to Christendom, at least? Perhaps: but certainly it was in part to a conception of parliament's competence which was disturbingly novel in the elevation of the view it took from one point, and intolerably restrictive when it looked from another point. More would accept as heir any one whom parliament might choose,<sup>2</sup> even some one stigmatised as a bastard by what he thought competent authority, and even to the disinheritation of some one whose legitimacy he could not doubt. Popes might not altogether like this. No king born in the fifteenth century, hardly any king in any century<sup>3</sup>

<sup>1</sup> Cf. p. 237 above.

<sup>2</sup> Cf. p. 235 above.

<sup>3</sup> James I succeeded in spite of statute: Charles II was willing that statute should keep his heir out of the kingdom but not out of the title: if Mary and Anne were not quite Jacobites it was religious more than parliamentary sanctions that forfended them: the Georges were electors promoted to be doges and Victoria was a Jacobite. Cf. also the arguments of Chapuys (*L. and P.* VII, no. 114, 28 Jan. 1534) to the Scottish ambassador against "whatever ordinances the estates might make under compulsion": and no. 337, Scotch ambassador rejoicing at the death of Suffolk (and Henry's sister Mary's) son, "his being a native would have made him a formidable competitor for the Scotch king". Cf. below, p. 347, Aske's question, between the rightful heir "and him to whom the same were given, who should be judges?" and the Henrican and Cromwellian assumptions in answer.



could have liked it. No wonder Cranmer forbade his preachers to "make men believe that the force of man's law and God's law is like".<sup>1</sup>

But if More had a whiggishly high view of parliaments and their acts by comparison with kings and their blood, and a whiggish view of the force of statute as coming from consent,<sup>2</sup> on the other hand he put the king's parliament too low compared with other councils: its statutes might be ignored as contrary to the laws of God and His Church, to earlier statutes, to the faith of previous generations or of foreign realms: he had malice enough, thought Norfolk,<sup>3</sup> to mention France, and if Cromwell would have been his best chance of sympathy with his notion of parliament making an heir, he would hardly have got whole-hearted sympathy from Clement with his unmeasured tribute to general councils.<sup>4</sup> And perhaps no party could easily have agreed with him on the constituency of Christendom, or on the logic of arguing that king and parliament could not do this or that because admittedly they could not unmake God. Whether to leave More unquestioned and his difficulties unresolved might not have been a safe enough course, and the decentest, was a matter of taste and policy: Henry chose to make an example.

<sup>1</sup> Cf. p. 241 above.

<sup>3</sup> Cf. p. 262 above.

<sup>2</sup> Cf. p. 260 above.

<sup>4</sup> Cf. pp. 251, 261 above.

## CHAPTER XIV

### MONASTERIES SUPPRESSED, ANNE BEHEADED, ROMAN AUTHORITY EXTINGUISHED

The deaths of More and Fisher had one immediate effect, they made it plain that king and pope were not to be reconciled: and the royal supremacy was being exercised in another way,<sup>1</sup> well calculated to widen the breach, for the summer of 1535 saw the decisive steps taken against the monasteries. Already the crown had annexed,<sup>2</sup> besides annates, one tenth of the net incomes of all spiritual benefices: the suggestion of diverting endowment was of long standing and of recent example, and had many respectable advocates: most important of all Cromwell was determined on secularisation and for some time had been hesitating only about ways and means. Some of his ecclesiastical advisers were apprehensive that

a severe visitation so early would make the clergy more averse to the king's power. But Layton, on the other hand, thought nothing would so much recommend the supremacy, as to see such good effects of it as might follow upon a strict and exact visitation. And the abuses of religious persons were now so great and visible, that the correcting and reforming these would be a very popular thing.<sup>3</sup>

This motive cannot have weighed very much, and the fear of "secret practices of many of those orders against the state" probably not much more: money was the main motive that started the vicar-general's engines, and that was what mattered most to his master, that and the pleasure of deepening the breach with the pope, making his own acts irreversible, and forcing other kings to envy and admire even if they would not approve and dared not imitate.<sup>4</sup>

The thing had already been done on a small scale:<sup>5</sup> in the fifteen-twenties some thirty small monastic houses had been suppressed by

<sup>1</sup> The two ways were connected, for the executions pushed the pope to action, and the risk of papal action being made effective by Charles or Francis or both meant that the English government needed a full treasury, cf. Dietz, p. 116.

<sup>2</sup> By act of parliament, 26 H. VIII c. 3.

<sup>3</sup> Burnet, I, p. 295.

<sup>4</sup> Cf. *L. and P.* VIII, no. 537, and XV, no. 136, for the use of this argument to other kings: both of these references are in Dietz, p. 127.

<sup>5</sup> Cf. p. 104 above.

Henry and Wolsey,<sup>1</sup> but all that had been with papal sanction and to the profit of education. "The real turning-point came in February 1532, when Christchurch, Aldgate, surrendered to the king. Papal sanction was no longer possible, and it soon became evident that the property was not to be devoted to any pious or charitable use."<sup>2</sup> Two years later the royal supremacy sufficed to suppress a whole order though a small one, that of the Friars Observant,<sup>3</sup> four hundred of whom were dispersed to prisons and other convents and their places taken by Austin Friars. Now houses were to be suppressed wholesale and the religious dispersed not into other houses but into the world.<sup>4</sup> The king had motives enough, Cromwell and Audley were satisfied with the methods they had evolved, and as Audley said (in another connection, it is true), "In case hereafter there should happen any doubt of error in it, it might soon be holpen by Parliament without difficulty".<sup>5</sup>

In January 1535 Cromwell had been named the king's vicar-general,<sup>6</sup>

<sup>1</sup> Cf. Dietz, pp. 109, 110, 113, for the view that the forfeitures of Wolsey's property on his fall were the preliminary to the "great sacrilege", for secularisations at this period in Europe even papist Europe, and for suggestions and rumours of confiscation, in 1531 and 1533.

<sup>2</sup> E. Jeffries Davis, "The Beginning of the Dissolution" in *Trans. R.H.S.* 4th series, vol. VIII, p. 129: the annual value was £590 (p. 131). The priory was in part a royal foundation, and the prior and canons signed a deed of surrender (p. 135), perhaps thinking the effect would be merely to get them out of the financial muddle they had fallen into (p. 135). The king's title was finally settled in March 1534 by statute which asserted that all the conventual property had been granted under the conventual seal to the king and his heirs (though heirs had not been mentioned) and that the convent had been left desolate for two years, and provided that the inquest of office necessary whenever any property fell to the Crown should be waived (p. 141): this avoided the difficulty of dealing with local juries, and also the question whether the rights and property of a corporation could be surrendered by the persons composing it at a particular date (p. 142). Cf. Wolsey and the surrender of York Place, p. 124 above.

<sup>3</sup> One of them, when Cromwell talked of throwing them in sacks into the Thames, told him that the way to heaven was as short by water as by land (Lingard, v, p. 37). This sack story is not the only instance of Cromwell's leaning towards Turkish methods: and had Humphrey Gilbert heard this story? Lingard says that fifty of the Observants perished from the rigour of their confinement.

<sup>4</sup> But not haphazard or without provision: cf. pp. 380-2 below.

<sup>5</sup> E. Jeffries Davis, p. 143.

<sup>6</sup> The word was in Cromwell's mind about this time: in 1538 Sir T. Denys reported Cromwell's advising him three years earlier to "read in a book called Bratton [Bracton, *De Legibus et Consuetudinibus Angliae*] not unwritten this four hundred

with authority<sup>1</sup> to undertake, by himself or his agents, a general visitation of churches, monasteries, and clergy. At about the same time the lord chancellor issued, under the statute 26 H. VIII c. 3 about first-fruits and tenths, commissions for every shire for ascertaining the annual value, gross and net, of every ecclesiastical benefice and corporation, by examination on oath: some of the commissioners got to work at once, all were very closely supervised by Cromwell,<sup>2</sup> the work was done in five or six months, and by the end of the year all the valuation books were at the exchequer.<sup>3</sup> The enquiry was hasty and no doubt imperfect, but there was no single thing unprecedented or surprising or chimerical about it.

In July 1535 started another enquiry, of which so much could hardly be said, for Cromwell's agents began to visit the monasteries to enquire whether divine service was duly observed, how many inmates there were and how many there ought to be, particulars of foundation and endowment, what special rules there were and how far kept, how well the Benedictine rule was followed, whether woollen shirts were always worn, and so on.<sup>4</sup> At the same time they gave "on the king's highness' behalf" a set of injunctions to all the monasteries—to keep the oaths to the succession and the statutes against papal jurisdiction and to teach that the king's power is by the law of God most excellent of all other under God in earth; no monk or brother to leave the precincts, nor woman to enter them; only one gate to be used and that to be well watched; good habits to be formed of reading the scriptures, distinguishing true religion from outward observance, giving alms discreetly, keeping strict accounts.

Also that every brother of this house that is a priest, shall every day in his mass, pray for the most happy and prosperous state of our

years, where he doth call the King's Grace *Vicarius Christi*, ... wherefore I do reckon a papist and a traitor to be one thing".

<sup>1</sup> Alleging the Act against Peter's Pence, etc., 25 H. VIII c. 21: chapter XIV is the relevant chapter. And cf. Merriman, I, p. 166.

<sup>2</sup> A. Savine, *English Monasteries on the Eve of the Dissolution*, pp. 2 ff. The bishops were usually chairmen of the commissions, with mayors, sheriffs, justices of the peace, etc.

<sup>3</sup> A. Savine, *English Monasteries on the Eve of the Dissolution*, pp. 16, 17.

<sup>4</sup> Burnet, IV, pp. 207 ff.; Wilkins, III, p. 786.

sovereign lord the king, and his most noble and lawful wife queen Anne. Also, that if either the master, or any brother of this house, do infringe any of the said injunctions, any of them shall denounce the same. . . to the king's majesty or to his visitor general or his deputy. . . Reserving power to give more injunctions, and to examine and discuss the comperts, to punish and reform them that be convict of any notable crime, to search and try the foundations charters donations appropriations and muniments of the said places; and to dispose all such papistical escripts as shall be there found, to the right honourable Mr Thomas Cromwell general visitor to the king's said highness, as shall seem most expedient to his high wisdom and discretion.<sup>1</sup>

In September episcopal visitations were inhibited,<sup>2</sup> that the field might be clear for the vicar-general: early in 1536 the work was finished. Layton and Leigh, John ap Rice, London, Tregonwell, and Bedyll, knew what was wanted and how to get it, and indeed deserve some of the credit for having stimulated the demand which they were so profitably to supply:<sup>3</sup> moreover, they frightened the weaker brethren in the monasteries so effectively that a spate of delation flowed in upon the vicar-general.<sup>4</sup> These considerations may excuse me from discussing how many monks and nuns were guilty,<sup>5</sup> and of what crimes, or how many actually wished to change their lot: certainly there were irregularities, and the commissioners no doubt reported more than there were; and certainly there were persons in religion who were glad to get out of it, and the commissioners with their enquiries and injunctions could frighten more into willingness, understanding well the advantage with public opinion if monks and nuns were "dismissed upon their own suit".<sup>6</sup>

When parliament<sup>7</sup> reassembled on 4 February 1536, some half-

<sup>1</sup> Burnet, IV, pp. 217, 222.

<sup>2</sup> *L. and P.* IX, no. 517, referring to Wilkins, III, p. 797.

<sup>3</sup> Cf. p. 271 above.

<sup>4</sup> Merriman, I, pp. 167, 168.

<sup>5</sup> For the favourable view, cf. Cardinal Gasquet, and for criticism of him G. G. Coulton, esp. *Medieval Studies*. Cf. Dietz, p. 118, monks likely to surrender and actually surrendering rather than obey the injunction to stay within their precincts; p. 122, recent scandals.

<sup>6</sup> *L. and P.* IX, no. 708, letter from Leigh and ap Rice to Cromwell about their proceedings in Cambs., 30 Oct. 1535.

<sup>7</sup> "...for the instruction of which there were at the same time printed and published several books concerning ecclesiastical ceremonies, especially against images

dozen houses<sup>1</sup> had already surrendered, and the principal business of the session was to arrange for the forfeiture of more. How much difficulty the government met in making this arrangement cannot be exactly reckoned, but it seems clear that there was some difficulty, and the method of meeting it seems fairly clear too. It seems that the king in person presented the bill to the commons on March 11,<sup>2</sup> and that they were urged to acceptance by a recital of the monkish enormities discovered by the vicar-general.<sup>3</sup> A week later Chapuys reported to the emperor that it had been determined in parliament that monasteries not worth more than a thousand crowns annual rent should be suppressed, "and I think some beginning has already been made in the work": he reported also that Norfolk, formerly the champion of a war policy in alliance with France, had recently told the French ambassador "that he and the other councillors of the king his master had enough to do in the current affairs of this parliament without troubling themselves about the said war".<sup>4</sup>

They certainly did a great deal in that parliament, and no doubt

and the adoration of saints, and against those who uphold purgatory; and in accordance with this and the statutes hitherto made against the Pope the preachers are commanded to instruct the people": Chapuys, 10 Feb. 1536, *L. and P.* x, no. 282.

<sup>1</sup> See a list, from the Close Roll, *L. and P.* ix, no. 816.

<sup>2</sup> J. Gairdner, *Lollardy and the Reformation*, II, p. 80, referring to Thomas Wright, *Suppression of the Monasteries*, Camden Soc. xxvi (1843), p. 38: "the king's grace came in among the burgesses of the parliament, and delivered them a bill and bade them look upon it and weigh it in conscience, for he would not, he said, have them pass on it nor on any other thing because his grace giveth in the bill, but they to see if it be for a common weal to his subjects... and on Wednesday next he will be there again to hear their minds": there seems little doubt that this was the bill for suppressing the smaller monasteries. The same letter-writer went on to speak of the project of poor relief and public works mentioned by Chapuys.

<sup>3</sup> H. Latimer, *Sermons*, Parker Soc. I, p. 123: "For when their enormities were first read in the parliament house, they were so great and abominable that there was nothing but down with them". He was preaching before Edward VI, and went on to complain that soon after some of the abbots, to save their pensions, were made bishops, and some were still alive.

<sup>4</sup> *L. and P.* x, no. 494. Chapuys added that Henry had proposed to parliament that every one should have to make graduated offerings at the sacrament and that this money should be used for alms and public works for poor relief: and he had resolved to forbid confession to all but curates (i.e. parish priests), who should refuse absolution to "any one who does not hold the pope for anti-christ and the king for head of the church".

(though there is no kind of certainty about Spelman's story<sup>1</sup> that Henry told the commons he would have his bill "or I will have some of your heads") opposition was in part overawed, as it was in part avoided. "Forasmuch as manifest sin vicious carnal and abominable living is daily used and committed among the little and small abbeys priories and other religious houses . . . where the congregation of such religious persons is under the number of twelve persons", to the great waste of lands goods and cattle, "to the High displeasure of Almighty God slander of good religion and to the great infamy of the king's highness and the realm . . . so that without such small houses be utterly suppressed and the religious persons therein committed to great and honourable monasteries . . . there can else be no reformation in this behalf"; in consideration thereof and of the lack of inmates in some of the great solemn monasteries wherein (thanks be God) religion is right well kept and observed, the Supreme Head, daily busy with the exaltation of true doctrine and virtue, thought good that a plain declaration should be made to lords and commons; and they "by a great deliberation finally be resolved that it is and shall be much more to the pleasure of Almighty God and for the honour of this his realm that the possessions of such spiritual religious houses . . . should be used and converted to better uses"; and so they humbly desired the king's highness that it might be enacted that he and his heirs should have and enjoy for ever all such religious houses as had not revenues above the clear yearly value of £200.<sup>2</sup>

And in this time [wrote the chronicler]<sup>3</sup> was given unto the king by the consent of the great and fat abbots all religious houses that were of the value of three hundred marks and under, in hope that their great monasteries should have continued still: but even at that time one said in the parliament house that these were as thorns, but the great abbots were putrified old oaks, and they must needs follow: "and so will others do in Christendom", quoth Dr Stokesley bishop of London, "or many years be past".

All houses surrendered within the last year were assured to the king: all grants of monastic lands or goods by letters patent were validated:

<sup>1</sup> Referred to by J. Gairdner, *Lollardy and the Reformation*, II, p. 82.

<sup>2</sup> 27 H. VIII c. 28.

<sup>3</sup> Hall, II, p. 276.

the rights were saved of everybody except the religious corporations themselves: the heads of houses were promised pensions, and the members transfer to larger houses: the king was authorised to maintain all such of the smaller monasteries as he might not choose to suppress: new grantees were to support as much hospitality and tillage as their predecessors, on pain of fine by justices of peace in quarter sessions.

This last was probably the point on which public opinion was most tender: but of that something may be said with regard to the Pilgrimage of Grace, and meanwhile the narrative should be brought up to the date of that outbreak. The most important events were in the domain of thought: if a revolution was in progress in England it was not merely happening, it was being made, with great intelligence and with unrepining merciless consistency.

Towards the end of 1535 Stephen Gardiner bishop of Winchester published<sup>1</sup> his pamphlet *De Vera Obedientia*. It was remarkable as the work of one who was a conservative, a loyal churchman who had been no anti-papalist, a lawyer and a humanist. It is remarkable also as maintaining on the highest grounds, in the fullest sense, and with the most explicit argumentation the rightness of the essential principle of Henry's government—Royal supremacy is no new thing: it is recognised by the bible's treatment of kings as God's representatives: as such they can claim obedience not only in temporal matters but also in religious, for they reign over one community, whose religious interests cannot be distinguished from its temporal interests and to whose duty of obedience scripture sets no limits. The bishop of Rome's claim to supremacy has no scriptural sanction. "The king, say they, is head of the realm but not of the church. O, what an absurd and foolish saying is that! As though, because the people beginneth now to believe in God, it were a just cause why they should be no more in subjection to the king, God's lieutenant." How blasphemous to assert that Christ who "never sought authority among men, gave it notwithstanding to the bishop of Rome, to use as his vicar". Some bishops of Rome have had, indeed, a moral and spiritual pre-eminence, but not more than

<sup>1</sup> Cf. Jas. A. Muller, *Stephen Gardiner and the Tudor Reaction*, pp. 60 ff: *Letters of Stephen Gardiner*, pp. 67 ff.



they owed to their virtues. As to oaths of allegiance to the pope, both civil and canon law recognise that an unlawful oath is not to be performed: Gardiner himself had been sincere when he took the oath, but he now sincerely believed it unlawful.<sup>1</sup>

The book was a great success, was published not only in England but also at Hamburg (with a preface by Bonner) and at Strasbourg. Some thought that Gardiner wrote it in fear:<sup>2</sup> however that may be, he had put in an English form and with an English relevance one of the main philosophies of political obligation, one which was for three-quarters of a century to dominate English politics, then for another three-quarters to be attacked and at last dominated, only to become, with no essential modification, the captor of its conquerors, and to reign for a century and a half as the omnicompetence of parliament when it had lost the heart to proclaim itself as the divine right of kings.

There were others developing the royalist doctrine who had none of Gardiner's difficulties and who were certainly not acting from fear, though they were as certainly not unmoved by greed. Leigh was Cromwell's most vigorous agent against the religious orders, and was sometimes an initiator as well as an agent: thus he wrote to Cromwell, on 24 September 1535,<sup>3</sup> explaining the proper answers to any bishop who might resent the inhibiting of episcopal visitations. The king, now acknowledged Supreme Head of the Church of England (though he always was so), could not give effect to his title without taking all jurisdiction into his hands. If the bishops had any jurisdiction not derived from him, it must come either from the law of God or from the bishop of Rome: was it the first? then let them show it in scripture ("but I think them not so imprudent as to say so"). Was it the second? then let them continue to exercise it, if they chose. Anyway, it should be remembered that their jurisdiction would be exercised according to canon law, if it were to be exercised at all; and the canon law had been banished out of this realm.

<sup>1</sup> Jas. A. Muller, *Stephen Gardiner and the Tudor Reaction*, p. 64. Cf. above, p. 195.

<sup>2</sup> Cf. the bishop of Faenza, *L. and P.* VIII, nos. 570 and 956, 27 March and 24 May 1536.

<sup>3</sup> *L. and P.* IX, no. 424.

Leigh went on to speak of Cambridge, and it is remarkable what pains were taken, there and at Oxford, to uproot canon law and to implant loyalty. Particular care was taken there, naturally, for setting forth the king's title of Supreme Head and for the just renunciation of the bishop of Rome's usurped authority.<sup>1</sup> Cromwell was graciously pleased to become, with the royal approval, chancellor of the university of Cambridge.<sup>2</sup> The religious houses were enjoined to maintain and strengthen their connections with the universities,<sup>3</sup> whose importance as strategic points was well recognised:<sup>4</sup> universities and colleges were assisted in their relations with townsmen:<sup>5</sup> their requests to be exempted from first-fruits and tithes were granted:<sup>6</sup> lectures were established in Greek and Latin and Hebrew, Dunce was set in Bocardo,<sup>7</sup> the civil law enjoined to be taught instead of the canon law; in heads of houses there was observed "great pertinacity to their old blindness", but the younger sort were "of much towardness"; the dissipations of undergraduates and the jobberies of dons were reprimanded.<sup>8</sup> In the upshot, Leigh told Cromwell, it was said in Cambridge that "you have done more for the advancement of learning than ever chancellor did", and even the elders, who still hankered after scholasticism, were "very conformable touching the king's business".<sup>9</sup>

Most important of all these measures was the suppression of canon-law teaching. The English courts Christian had been courts of the canon law, however much an English king with his courts and his other instruments might practically limit their field of action. After Cromwell's day they found their decisions dictated by act of parliament.<sup>10</sup> Since the Act for the Submission of the Clergy and the Act against

<sup>1</sup> Cf. *L. and P.* VIII, no. 933, Bishop of Ely to the Master of Peterhouse, 27 June 1535; also IX, no. 351.

<sup>2</sup> *L. and P.* IX, nos. 208, 615.

<sup>3</sup> No. 784.

<sup>4</sup> Nos. 138, 265, 661, 708.

<sup>5</sup> No. 615.

<sup>6</sup> Nos. 13 and 708 (Leigh to Cromwell, "As they have no superfluity it is a pity to take anything from them") and 27 H. VIII c. 42.

<sup>7</sup> Prison; i.e. Duns Scotus was knocked off his perch, i.e. the scholastic philosophy was deposed: *L. and P.* IX, nos. 350, 615, 664.

<sup>8</sup> Nos. 350, 664, 708.

<sup>9</sup> No. 708.

<sup>10</sup> E.g. in matrimonial cases after 1540, 32 H. VIII c. 38: this instance, and the substance of the whole paragraph, come from F. W. Maitland, *Canon Law in England*, pp. 90 ff.

Peter's Pence,<sup>1</sup> at any rate, they were faced with a statutory orthodoxy which taught that it was only on sufferance that there had ever been currency in England for any law of any foreign prince, potentate or prelate, and that much of the canon law was extremely reprehensible. They were to have laymen for their judges. But more important still than all this, most notable breach of continuity of all, "the academic study of the canon law was prohibited... the very life thread of the old learning" was cut, and "the unhallowed civilian usurped the place of the canonist on the bench". The first lesson to be learnt from opening the Code was that emperors could legislate *De episcopis et clericis*, *De sacrosanctis ecclesiis*, even *De summa trinitate et fide catholica*.<sup>2</sup>

The king's power to keep what canon law he chose and to abolish whatever he disliked was (1536) asserted by 27 H. VIII c. 15:<sup>3</sup> this statute referred to the Act for the Submission of the Clergy,<sup>4</sup> and then recited that the clergy "most humbly besought the king's highness that the said constitutions and canons may be committed to the examination and judgement of his highness and of thirty-two persons", whereof eight to be of either house and sixteen of the clergy: such of the canons as these thirty-two or the majority of them disapproved were to be "abolished and made of no value" and such as they "approved to stand with the laws of God and consonant to the laws of the realm shall stand in their full strength and power, the king's most royal assent first had and obtained to the same": accordingly it was so enacted, and the king was authorised to nominate the thirty-two commissioners at any time within three years of the end of the parliament then sitting.

That parliament did more to fill in the details of the ecclesiastical revolution. The act establishing the Court of Augmentations<sup>5</sup> helped

<sup>1</sup> 25 H. VIII cc. 19, 21: cf. pp. 227 ff. above.

<sup>2</sup> F. W. Maitland, *Canon Law in England*, pp. 92, 93.

<sup>3</sup> Parliament met on Feb. 4, according to Chapuys (*Sp. Cal.* v (2), p. 41), who added, "a pamphlet having been printed at the same time for the information of its members, containing a list of the measures to be discussed therein", mostly against ceremonies, images, saint worship, purgatory: "preachers have been enjoined to instruct the people thereupon": Henry has no difficulty in getting Lutheran opinions accepted, even about purgatory, in spite of chantries, etc.

<sup>4</sup> 25 H. VIII c. 19, p. 232 above.

<sup>5</sup> 27 H. VIII c. 27.

the crown to exploit the sequestered monasteries; it erected a court to be called the Court of the Augmentations of the King's Revenues, with a chancellor to keep its great seal, and a treasurer, an attorney, a solicitor, ten auditors, seventeen receivers, clerk, usher, and messenger, all to be named by the king; all the dissolved monasteries and their revenues together with all lands purchased by the king were to be "in the order survey and governance of the said court"; it was to be quite independent of the Court of Exchequer. That indeed was, no doubt, to contemporaries, especially to the king,<sup>1</sup> the particular point of the act, as to us its general point is the survival of the identification of administration and jurisdiction:<sup>2</sup> the men who administered the new rules and the new resources were not always above bribery or chary of intimidation: judicature was not always judicial but at least administration was carried on under the forms of judicature.

Two other acts of this session<sup>3</sup> facilitated the collection of tithe, recently withheld "in more temerous and large manner than before this time hath been seen", but henceforth to be exacted "by due process of the king's ecclesiastical laws of the Church of England", before ordinaries, reinforced when necessary by king's councillors or by justices of the peace. Churchmen were also advantaged by the remission of tenths in the years in which first-fruits had to be paid. The other ecclesiastical interest of this session was sanctuary;<sup>4</sup> embezzlers were excluded from it and from benefit of clergy, and sanctuary men were to wear distinctive badges when they were out of sanctuary, not to carry weapons, not to be out of sanctuary at night. And to finish with this parliament, which was dissolved at last on 14 April 1536, the rest

<sup>1</sup> Cf. *Henry VII*, p. 26, Tudor use of the King's Chamber instead of the Exchequer: and the Court of General Surveyors, 7 H. VIII cc. 7, 14 and 15 H. VIII c. 15, made permanent by 27 H. VIII c. 62.

<sup>2</sup> Cf. an article on factory inspectors by Sir Malcolm Delevingne in *The Times* for 20 July 1933. "The 1833 Act laid the foundation of the inspection system well and truly on lines which have, except on one point, undergone no serious modification. This point will appear curious to modern eyes. The inspectors were given power to make 'such rules, regulations, and orders as may be necessary for the due execution of the Act' and to try offenders, to impose fines, and in default to commit to prison. Such powers were quickly found to be unsuitable, were felt so by the inspectors themselves, and were taken away by the next Act, that of 1844."

<sup>3</sup> 27 H. VIII cc. 20, 21.

<sup>4</sup> Cc. 17, 19.

of its last session's acts may be roughly classified into the economic, the legal, and those establishing and extending the sovereignty and effectiveness of the crown; for it was not only in the ecclesiastical field that this was being done.

Divers towns were to be re-edified,<sup>1</sup> excessive tolls avoided at Kingston-upon-Hull and in the Welsh forests,<sup>2</sup> the breed of horses improved,<sup>3</sup> restrictions on butchers relaxed,<sup>4</sup> cloth manufacture and the export of leather regulated,<sup>5</sup> the Thames and the west country ports conserved,<sup>6</sup> Henry VII's statute<sup>7</sup> against the decay of houses and husbandry reinforced,<sup>8</sup> sturdy beggars made to work, idlers and rufflers punished, town officers and churchwardens directed to solicit alms for the maintenance of the impotent, and all other alms discontinued.<sup>9</sup> There were various legal improvements, the most important being "an act for recontinuing of certain liberties and franchises heretofore taken from the Crown",<sup>10</sup> the Statute of Uses<sup>11</sup> and that stereotyping the course of the seals.<sup>12</sup> And finally, there were a couple of statutes carrying on the policy of assimilating Wales to England.<sup>13</sup>

The Statute of Uses<sup>14</sup> is highly characteristic of Tudor government in its purposes, the way it was passed, and its effects. It was very much a government bill,<sup>15</sup> initiated, drafted, fitted into a programme, and piloted through parliament by the king's servants in the interests of his treasury. If the king was to live of his own, his own must be assured to him: and what more his own than the dues incident to his

<sup>1</sup> 27 H. VIII c. 1.

<sup>2</sup> Cc. 3, 7.

<sup>3</sup> C. 6.

<sup>4</sup> C. 9. For earlier Welsh statutes cf. pp. 31 ff. above.

<sup>5</sup> Cc. 12, 13, 14.

<sup>6</sup> Cc. 18, 23.

<sup>7</sup> 4 H. VII c. 19.

<sup>8</sup> C. 22.

<sup>9</sup> C. 25.

<sup>10</sup> C. 24.

<sup>11</sup> Cf. pp. 131, 172, 205 above; 27 H. VIII c. 10.

<sup>12</sup> 27 H. VIII c. 11: cf. *Henry VII*, p. 140: though the half-dozen stages were stereotyped, there might still be short-circuiting by a "signed bill" under the sign manual directly instructing the chancellor to prepare a writ or by "immediate warrant" from the secretary dispensing with the signet and privy seal stages (though not with the appropriate fees).

<sup>13</sup> Cc. 5, 26: cf. p. 252 above.

<sup>14</sup> For the earlier history of equity and of uses cf. Holdsworth, I, pp. 454 ff.; III, p. 71; IV, pp. 409-27: and see above, pp. 131, 172; *Henry VII*, p. 166.

<sup>15</sup> For government's, and esp. Cromwell's, "legislative programmes", cf. *L. and P.* v, nos. 721, 722, a dozen draft bills with corrections and endorsements by, e.g., Cromwell and Audley (and see other references, Holdsworth, IV, p. 96); VII, nos. 48, 49, Cromwell's "remembrances"; Merriman, I, pp. 123-5, 133-8.

feudal superiority? Now uses facilitated wholesale evasion of wardship, marriage rights, relief, primer seisin, fines for alienation, escheat, by the device of enfeoffing several persons as joint tenants to the use of the feoffor.<sup>1</sup>

Some sort of use, of arrangement by which one party had the legal right to land while another had the enjoyment of it, can be traced back to the Norman period, and had become common by the thirteenth century:<sup>2</sup> by the beginning of the fifteenth century parliament was concerned about "disloyal feoffees" and other possibilities of fraud: so began statutory control of the use, while the beneficiaries of it continued to look to chancery, the king's court of conscience, for protection.<sup>3</sup> By that time, also, uses began to appear in wills,<sup>4</sup> and thus land was coming within the power of testamentary disposition:<sup>5</sup> the use was also of great advantage in facilitating the owning of property by unincorporated bodies,<sup>6</sup> e.g. gilds, chantries, and parishes.<sup>7</sup>

So there were important vested interests concerned to maintain the use, and it is not surprising if the subjection and reformation of it by statute was not easy. Provision might be made against the use's perversion for fraud,<sup>8</sup> mortmain,<sup>9</sup> and maintenance,<sup>10</sup> or to enable the enjoyer of the use, *cestuique use*, to dispose of the land.<sup>11</sup> It was more difficult to deal with the use as a destroyer of the king's feudal income. A statute of 1489<sup>12</sup> exacted wardship and relief from infant heirs to the use of land held by knight service, in cases of intestacy. "It was a tentative and a timid statute."<sup>13</sup> Again, the statute of 1504<sup>14</sup> did some-

<sup>1</sup> Holdsworth, IV, p. 446: cf. also III, pp. 70, 71.

<sup>2</sup> Holdsworth, IV, pp. 415, 416, their convenience to the friars.

<sup>3</sup> P. 417.

<sup>4</sup> P. 420.

<sup>5</sup> Which was the main cause of the popularisation of uses: cf. Saint-German, *Doctor and Student*, II, c. 22, F. W. Maitland, *Collected Papers*, III, p. 335.

<sup>6</sup> For whom it could be held by feoffees to use: but they could not be feoffees to use, Holdsworth, IV, p. 427, and in the sixteenth century the lawyers concluded that this was why the king could not be feoffee to use, it being assumed that all gifts to him were to his politic or corporate capacity. Cf. *Henry VII*, p. 140.

<sup>7</sup> Cf. Holdsworth, pp. 440, 477.

<sup>8</sup> 50 E. III c. 6; 2 R. II st. 2, c. 3; 3 H. VII c. 5; 19 H. VII c. 15.

<sup>9</sup> 15 R. II c. 5.

<sup>10</sup> 1 R. II c. 9; 4 H. IV c. 7; 11 H. VI c. 3.

<sup>11</sup> 1 R. III c. 1: for this and the three previous notes, cf. Holdsworth, IV, pp. 443-4.

<sup>12</sup> 4 H. VII c. 17.

<sup>13</sup> Holdsworth, IV, p. 448.

<sup>14</sup> Note 8 above, and Holdsworth, pp. 428, 449.

thing for the rights of lords of land held to the use of their socagers or villeins: but that was not much help to the crown. For quite a century now the use's tendency to diminish the royal income had been observable,<sup>1</sup> but so long as large landholders dominated politics it could not be openly and squarely confronted. Only after a generation of Tudor government was the crown so financially pressed that it preferred, and so politically strong that it was able, to raise the whole question and to deal with it.

It was in 1529 that Henry VIII took up the question: his first attempt at a solution was by way of bargain with the nobility:<sup>2</sup> the nobles were willing, but the other landowners thought that the king's bargain would lessen their security, and the lawyers their fees, and that was enough to prevent its getting through the house of commons: and another similar attempt in 1532 produced nothing but more opposition.<sup>3</sup>

This parliament was in general even more than any other parliament an engine of the common law, especially a device for undoing what Wolsey had done and doing what he had left undone, and Henry may have counted excessively on the inclination of common lawyers to back any invasion of chancery, any reaction against Wolsey.<sup>4</sup>

Certainly they could not deny that uses had some indefensible features: they did not like their tendency to divert business and fees to chancery: they were frightened by Henry's listening to a petition<sup>5</sup> against their excessive influence in the commons, their quibblings, delays, and extortions. The landed men also were frightened by

<sup>1</sup> *R.P.* III, pp. 445 (159), 558 (63).

<sup>2</sup> Holdsworth, IV, pp. 450 ff. Cf. *L. and P.* IV, no. 6044, for the "Articles condescended and agreed by the King's highness and the noblemen" in Nov. 1529, to be enacted by authority of parliament: signed by the king and chancellor and over 30 others, almost all peers.

<sup>3</sup> *L. and P.* V, nos. 762 (p. 362), 805 (p. 380), 989 (p. 462).

<sup>4</sup> Cf. *Wolsey*, pp. 93, 243, 346 ff. "control of the council, combined with that of the great seal, made him absolute master of the jurisdictions which derived therefrom, including the star chamber, courts of requests, chancery and admiralty": and cf. *L. and P.* III (1), no. 751, 19 April 1520, letter from Warham, then chancellor, to Wolsey, who had stopped a suit brought against him in the common pleas on the ground that a chancellor ought not to be sued in that court, "for then the Common Pleas should have superiority upon the Chancellor".

<sup>5</sup> W. S. Holdsworth, VI, p. 454; *L. and P.* VII, no. 1611 (3).

stringent enquiries into their settlements.<sup>1</sup> In the next session but one parliament had before it "a list of grievances suffered by the realm from uses, three draft bills concerning uses and wills, and one draft bill concerning the enrolment of covenants"<sup>2</sup> and bargains about the uses of lands. Now at last the king got much of what he wanted, though even now there was much he did not get.

The main part of what he got<sup>3</sup> was a generalisation of the device of Richard III's statute<sup>4</sup> transferring to the beneficiaries the legal estates he had held for them before he became king: now where any person was seised merely to the use of another, without any interest or active duty for himself, the seisin passed from him to be vested in the beneficiary, the *cestuique use*.

At the same time another bill,<sup>5</sup> which was to have accompanied this, came to nothing. It was an elaborate and comprehensive proposal for the registration of land transfers, under the supervision of officials controlled by the council.<sup>6</sup> Neither lawyers nor landowners would like this much, and the revenue was not so directly interested in it: probably these are the reasons why parliament passed instead a makeshift substitute<sup>7</sup> which was never effective.

The statute was far from abolishing uses, but it turned large numbers of them into legal ownership and therefore subjected the landholders affected "to all the liabilities and disabilities of legal ownership; worst of all, it took away from them the power of devising their lands".<sup>8</sup> The common lawyers scotched a rival development and got a large increase of business. The king had made the incidents of tenure far more profitable. It remained possible, in spite of renaissance romanising and sovereignty-making, for unincorporate groups to have corporate lives and activities and properties, with immense consequences<sup>9</sup> for many generations.

<sup>1</sup> E.g. *L. and P.* vii, no. 383 (1534).

<sup>2</sup> Holdsworth, vi, p. 455.

<sup>3</sup> 27 H. VIII c. 10.

<sup>4</sup> 1 R. III c. 3: cf. Holdsworth, vi, p. 461.

<sup>5</sup> Holdsworth, vi, app. iii (5), p. 582.

<sup>6</sup> Chancellor, treasurer, president, privy seal, sitting in the star chamber and calling to them one of the two chief justices.

<sup>7</sup> 27 H. VIII c. 16: cf. Holdsworth, vi, pp. 460, 462.

<sup>8</sup> Holdsworth, vi, p. 463: cf. below, on the Pilgrimage, esp. p. 348.

<sup>9</sup> Cf. F. W. Maitland, *Collected Papers*, iii, pp. 356-403. Cf. *Henry VII*, p. 138.



Before this long parliament ended, the longest ever seen, its cause had passed away. On 7 January 1536 Catharine of Aragon died, praying "that God would pardon the king her husband the wrong he had done her, and that the divine wisdom would lead him to the true road and give him good counsel".<sup>1</sup> "You could not conceive the joy that the king and those who favour this concubinage have shown at the death of the good queen, especially the earl of Wiltshire and his son, who said it was a pity the princess did not keep company with her. The king, on the Saturday he heard the news, exclaimed 'God be praised that we are free from all suspicion of war'." Next day he was clad all in yellow,<sup>2</sup> "and the Little Bastard was conducted to mass with trumpets and other great triumphs". The people, Chapuys thought, were full of indignation, and it would be right as well as opportune to proceed to the execution of the papal sentence against Henry, especially as it concerned the Princess Mary, who was consulting him about the best way to avoid the webs of the concubine and the attempts to make her take the oath to the succession. Cromwell was not ashamed to point out to one of the imperial ambassador's men how Catharine's removal eased the relations of their masters, and seems even to have had, or pretended to have had, some hopes of the pope.<sup>3</sup> Chapuys felt sure the queen's death was due to poison, and feared that the princess would go the same way.

Anne Boleyn, pregnant once more and with her rival dead, seemed to have everything her own way: but on 29 January 1536, the very day of Catharine's burial, she miscarried. According to Chapuys<sup>4</sup> the king showed great distress but not, apparently, much sympathy, for on the very day of the miscarriage the same witness passed on a confidential report of Henry's opinion that the Boleyn marriage was made by witchcraft, was therefore null, and was doomed to disaster, and a little

<sup>1</sup> *L. and P. x*, no. 141 (p. 50), Chapuys to Charles V, 21 Jan.

<sup>2</sup> Hall says that "Queen Anne wore yellow for mourning". It is not certain that the bright colour marked a caddish ostentation of joy: Henry could hardly wear full mourning for a woman whose wifedom and queenship he had been for years denying. Yellow has been a mourning colour at various times and places, cf. W. C. Hazlitt, *Faith and Folklore* (edn. 1905), II, p. 425.

<sup>3</sup> *L. and P. x*, no. 141, p. 52.

<sup>4</sup> *L. and P. x*, no. 282.

later Chapuys was retailing court gossip to the effect that "for more than three months the king has not spoken ten times to the Concubine, and that when she miscarried he scarcely said anything to her, except that he saw clearly that God did not wish to give him male children".<sup>1</sup> Certainly Anne did not rejoice for long over Catharine's death but began to perceive that danger lurked in that blessing: now that Henry was rid of Catharine, what was there, except Anne, to prevent his contracting a marriage that should be indisputable?

Whether this was the main motive, or an inclination for Jane Seymour, or whether Anne was really guilty of all the crimes with which she was to be charged, on April 24 the first blow was struck: the king signed a commission<sup>2</sup> to the chancellor, the dukes of Norfolk and Suffolk, another half-dozen noblemen, Cromwell, Fitzwilliam, Paulet, and the nine judges to enquire into every kind of treason, by whomsoever committed, and to try the offenders. The commission was kept secret, but within a week Cromwell was satisfied that his enquiry had produced enough for the destruction of Anne. On May 2 she was brought before the council<sup>3</sup> and sent from them to the Tower:<sup>4</sup> there already were Mark Smeton and Henry Norris and thither soon after were brought Anne's brother Lord Rochford, Sir Francis Weston, William Brereton, and others. On May 10 indictment was found by grand jury against her in Middlesex, and on May 11 in Kent, for treason by adultery with all those named, and by conspiring with them the death and destruction of the king, "often saying she would marry one of them as soon as the king died". On May 15 (four other alleged accomplices having been already found guilty by the special commission) she was arraigned before the duke of Norfolk as lord high steward and twenty-six peers, pleaded not guilty but was condemned

<sup>1</sup> *L. and P. x*, nos. 199, 351.

<sup>2</sup> P. Friedmann, *Anne Boleyn*, II, p. 243, referring to Record Office.

<sup>3</sup> Friedmann, pp. 252, 253.

<sup>4</sup> And, according to a ballad written within a month, in London,

"... n'eussiez veu jusque aux petis enfans  
Que tous chantans et d'aise triumpans  
Il n'y a cuer si triste qui ne rye  
En attendant la princesse Marie".

*L. and P. x*, no. 1036: cf. Chapuys' report of popular hopes for Mary (no. 908).

without a dissentient<sup>1</sup> and without any witnesses having been heard against her or any counsel in her defence. Having heard her sentence, she declared that what she regretted most was that persons who were innocent and loyal were to die for her.<sup>2</sup> On 19 May 1536 she was beheaded, having protested her innocence and made this speech:

Good Christian people, I am come hither to die, for according to the law and by the law<sup>3</sup> I am judged to die, and therefore I will speak nothing against it. I am come hither to accuse no man nor to speak anything of that whereof I am accused and condemned to die, but I pray God save the king and send him long to reign over you, for a gentler nor a more merciful prince was there never: and to me he was ever a good, a gentle, and sovereign lord. And if any person will meddle of my cause, I require them to judge the best. And thus I take my leave of the world and of you all, and I heartily desire you all to pray for me:

and she continued with commendations of her soul to God till her head was struck off. "And on the Ascension day following the king wore white for mourning."<sup>4</sup> His mourning did not last long, for "the week before Whitsuntide the king married lady Jane daughter to the right worshipful sir John Seymour knight, which at Whitsuntide was openly showed as queen". Already a couple of days before Anne's execution her marriage had been declared invalid, on grounds which were not disclosed,<sup>5</sup> by the archbishop of Canterbury, on the very day of her death dispensation for the Seymour marriage in spite of affinity was granted by the same authority,<sup>6</sup> and the next day there was a formal (though private) betrothal.<sup>7</sup> It was only the day after that Paul III, informed of Anne's fall from favour but not yet of her death, began

<sup>1</sup> *L. and P. x*, no. 876.

<sup>2</sup> *L. and P. x*, no. 908.

<sup>3</sup> The constable of the Tower reported that when brought there she said, "Mr Kingston, shall I die without justice? And I said, the poorest subject the king hath hath justice. And therewith she laughed": *L. and P. x*, no. 793.

<sup>4</sup> Hall, II, p. 269: cf. *L. and P. x*, no. 1036, and Friedmann, II, p. 295.

<sup>5</sup> Perhaps Anne's alleged pre-contract to Northumberland, perhaps affinity by way of illegitimate connection between Henry and her sister Mary. The object of the degree of nullity was perhaps to keep Henry free from the charge of executing his wife, perhaps to prepare the way to the throne for the duke of Richmond: cf. Friedmann, II, pp. 286 ff.; *L. and P. x*, p. xxix.

<sup>6</sup> *L. and P. x*, no. 915.

<sup>7</sup> *L. and P. x*, no. 926.

to hope, and even to try to arrange, for a reconciliation with the king of England, poisoner, adulterer, tyrant, perhaps, but a politician to whom it might now plausibly be suggested that an anti-Roman line was no longer necessary and a pro-Roman line might once more be profitable.<sup>1</sup> Never was a project more illusory: the events of the summer were to make Henry stiffer in schism than ever. But before they are recounted some features of the Boleyn trials may be noted.

There is no reason to suppose that the grand juries had been packed:<sup>2</sup> their findings, in a case initiated by officials, were matters of form. Nor was the panel of peers which tried Anne any more suspect, though most of the twelve knights who pronounced against Norris, Weston, and Brereton were royal servants. Anne's lack of counsel was perfectly ordinary, and the lack of any opportunity to shake hostile testimony hardly less so. There were two features, however, in which her trial was, if not unique, at least notable, and they were these: treason was "constructed" with great freedom—Anne had talked to Norris of marriage, therefore she meant to marry him, therefore they must have desired Henry's death, therefore they had conspired to that end. And few of those who condemned her can really, even with the aid of such sophistry, have believed her guilty of more than very little of what they professed to find against her: but that she had upon her moral guilt of one sort and another, enough to deserve death, and that the state had reason enough to desire her death, these propositions probably none of them doubted, or doubted that they were a sufficient discharge of their own consciences. Tudor juries cannot be understood without a recollection of this habit of mind.

Parliament<sup>3</sup> met on 8 June 1536: its chief business was to deal with the king's matrimonial difficulties, and the closely related problem of the succession. There was rather more than the usual number of private acts, almost all fixing the title to land, the usual economic and ad-

<sup>1</sup> Friedmann, II, pp. 302 ff. Cf. above, pp. 267, 286.

<sup>2</sup> For all this paragraph cf. Friedmann, II, pp. 268 ff.

<sup>3</sup> Calais was represented for the first time, as Berwick had been in 1529: now only Durham was left, till Oliver Cromwell summoned representatives from thence; cf. A. F. Pollard, *Henry VIII*, p. 368.

ministrative acts,<sup>1</sup> the provisions (becoming usual) to diminish still further benefit of clergy<sup>2</sup> and to develop still further the English system of government in Wales:<sup>3</sup> but by far the most important were those concerned with the succession. The lord chancellor expressed the king's surprise and regret at having to call another parliament so soon, in order to appoint an heir in case he should have no legitimate children, and to repeal the statute in favour of Anne Boleyn, and ventured to express also the gratitude every one must feel for Henry's public spirit in making a third matrimonial venture, in spite of his previous misfortunes.<sup>4</sup> In spite of this indication of parliament's purpose the first three weeks were spent in matters of minor importance, and it was not till June 30 that Audley brought the Succession Bill to the lords and it was read a first time: the next day it received its second and third readings and was sent to the commons, whence it returned on 4 July 1536 (on which day also the bill against the pope's authority came from the commons to the lords).

The Succession Act<sup>5</sup> began by reciting 25 H. VIII c. 22 and 26 H. VIII c. 13 (establishing the Boleyn marriage and succession) and the recent discovery that the marriage was nul from the beginning, and the condemnation of Anne, and accordingly repealed the two statutes, confirmed the attainder of Anne and her accomplices, declared the Aragon and Boleyn marriages void, and their issue illegitimate; consequently, "all the issue hereafter to be had and procreate between your highness and your said most dear and entirely beloved lawful wife Queen Jane shall be your lawful children and heirs",<sup>6</sup> sons first and their heirs and then daughters and their heirs: but it was still in the hands of God whether Henry would have sons or daughters by Jane or any other wife, and "then this Realm after your transitory life shall be destitute of a Governor, or else percase encumbered with such a person that would covet to aspire to the same,"<sup>7</sup> whom the subjects of this realm shall not find in their hearts to love dread and obediently serve as their Sovereign Lord": and if Henry named a successor at

<sup>1</sup> Esp. 28 H. VIII c. 5, for the trial of piracy by jury in any county.

<sup>2</sup> C. 1.

<sup>3</sup> C. 3.

<sup>4</sup> *L.J.* 1, pp. 85, 88, 92, 93.

<sup>5</sup> 28 H. VIII c. 7.

<sup>6</sup> Paragraph 8.

<sup>7</sup> E.g. the king of Scots.

once, then the person so named might "take great heart and courage and by presumption fall to inobedience and rebellion", and others with him: in view of all which considerations and not doubting that his majesty "can best and most prudently provide such a Governor . . . as shall and will succeed and follow in the just and right tract of all your proceedings . . . and all the laws and ordinances established in your gracious time . . . whereby we . . . may live, as near as may be, in as good peace unity and obedience after your decease" as during Henry's reign, his subjects did therefore beseech that it might be enacted that he had authority, by letters patent or by his will, to appoint (for lack of lawful heirs of his body) the imperial Crown of this Realm "to such person or persons in possession and remainder" as he chose. The charge and penalties of high treason were affixed to such persons as by word, writing or act should do anything to the peril of the king or his successors, or for the repeal of this act or the shaking of the Seymour marriage or the succession under this act; or should judge either of the earlier marriages sound or its issue legitimate; or should refuse to answer interrogatories on oath relating to this act. All subjects were to swear<sup>1</sup> "to bear faith truth and obedience all only to the King's Majesty, supreme head in earth under God of the Church of England, during his life, and to his heirs of his body . . . and further to the heirs of our said Sovereign Lord according to the limitation in the statute . . .". Any successor coming to the throne under the age of eighteen (or of sixteen if female) should be in the governance of such counsaillours and nobles (including or excluding a mother) as the king's will might appoint, and any act or writing to the contrary should be high treason. And finally,<sup>2</sup> the statute shall be "accepted according to the plain words" and "shall not be interpreted nor expounded by colour of any pretence . . . any thing or things act or acts of parliament heretofore made or hereafter to be had done or made to the contrary thereof notwithstanding: and that every act statute law provision thing and things heretofore had or made or hereafter to be had done or made contrary to the effect of this statute shall be void or of no value or force".

An even more extraordinary enhancement of the crown's authority

<sup>1</sup> Paragraph 15.

<sup>2</sup> Paragraph 18.

was attempted in another statute, passed in even greater haste. The Minorities Bill was read three times by the lords on 17 July 1536 (the same day on which they read three times the bill attainting Kildare<sup>1</sup> and his adherents named and unnamed), and the next day it was passed and returned by the commons:<sup>2</sup>

Forasmuch as laws and statutes may happen to be made within this realm at parliaments holden at such time as the kings of the same shall happen to be within age, having small knowledge and experience of their affairs, to the great hindrance and derogation of the imperial crown of this realm and to the universal damage of the common wealth of the subjects of the same;

it was therefore enacted that if the crown came to any heir or nominee of Henry's

being within the age of twenty-four years . . . , that then every such heir . . . or such person so possessed of the crown and being within the same age of twenty-four years shall have full power and authority at all times after they shall come to their said full ages of twenty-four years, by their letters patent under the great seal of England, to revoke . . . acts made and established by their royal assents in any parliament holden during the time that they were within their said age of twenty-four years, . . . any act or acts hereafter to be made to the contrary thereof notwithstanding.

The authority of the bishop of Rome was belittled as much (though not quite so hastily) as the power of this imperial crown was magnified. On 4 July 1536 the bill for extinguishing Roman authority was brought from the commons to the lords, on the next day read once, on the day after again, on the 12th read for the first time after amendment, and the 14th read for the last time and sent back to the commons:<sup>3</sup>

Forasmuch as notwithstanding the good and wholesome laws . . . heretofore enacted . . . for the extirpation . . . of the pretended power and usurped authority . . . which did obfuscate and wrest God's holy word and testament a long season from the spiritual and true meaning thereof to his worldly and carnal affections, as pomp glory avarice ambition and tyranny, covering and shadowing the same with his

<sup>1</sup> Thomas Fitzgerald: cf. above, p. 252, the earlier attainder 26 H. VIII c. 25.

<sup>2</sup> *L.J.* 1, p. 101: 28 H. VIII c. 17.

<sup>3</sup> *L.J.* 1, pp. 93, 94, 96, 98: 28 H. VIII c. 10.

human and politic devices traditions and inventions set forth to promote and stablish his only dominion both upon the souls and also the bodies and goods of all Christian people, excluding Christ out of his kingdom and rule of man's soul, as much as he may, and all other temporal kings and princes out of their dominions which they ought to have by God's law upon the bodies and goods of their subjects . . . ; notwithstanding the said wholesome laws . . . divers seditious and contentious persons, being imps of the said bishop of Rome and his see and in heart members of his pretended monarchy, do in corners and elsewhere as they dare . . . from time to time instil into the ears and heads of the poor simple and unlettered people the advancement and continuance of the said bishop's feigned and pretended authority, . . . whereby the opinions of many be suspended their judgements corrupted and deceived and diversity in opinions augmented and increased, to the great displeasure of Almighty God, the high discontentation of our said most dread sovereign lord, and the interruption of the unity love charity concord and agreement that ought to be in a Christian region and congregation:

therefore the penalties of premunire were pronounced against persons who should by writing, teaching or act uphold papal jurisdiction; justices of assize and of peace were to enquire into offences and to certify presentments to king's bench; bishops, archdeacons and their officers were to enquire into offences by spiritual persons and to commit them to star chamber; on penalty of high treason all persons holding office ecclesiastical or temporal, or land from the king, or taking vows or orders or degrees, were to swear to resist always all Roman jurisdiction and to maintain always the royal supremacy and all statutes made or to be made in its favour.

If it was necessary that papal authority should be utterly and effectively denied, it was convenient also that some portions of it should continue to be exercised, within the realm, of course. The sixteenth chapter<sup>1</sup> of this short parliament accordingly noted the intolerable inconvenience and injustice which would result if the interests vested

<sup>1</sup> 28 H. VIII c. 16: according to Chapuys (*L. and P.* XI, no. 148) this was the act of this parliament's which there was most difficulty in passing, because of the doubts which it was feared might be thrown on legitimacy of descent if papal dispensations had been invalid. C. 13 tightened up 21 H. VIII c. 13 against non-residence.



by the acceptance of dispensations and faculties were to be destroyed, noted also that the parties, individual and corporate, concerned had "now sincere pure and perfect intelligence and knowledge of the said usurped authority", and enacted that all papal instruments were and should be invalid, that nevertheless rights existing under them should in general stand, by virtue of this act and not of the said bulls and beliefs, "in all such cases only as may be dispensed with by the archbishop of Canterbury by authority of the laws and statutes of this realm": individuals might get their documents confirmed under the Great Seal if they had been approved by counsaillours or masters in chancery appointed for that purpose by the king.

The enormous elevation of royalty and the urgency of the dynastic problem at this time were most signally illustrated in the attainder<sup>1</sup> of Lord Thomas Howard, brother of the duke of Norfolk. Although the whole peace and unity of the realm depended on the certainty of the succession, and for that very reason the king had summoned this parliament, which thereupon by good and mature deliberation had devised and accepted the Succession Bill, yet Thomas Howard secretly, "led and seduced by the devil . . . contemptuously and traitorously contracted himself by crafty fair and flattering words to and with the Lady Margaret Douglas being natural daughter to the Queen of Scots"<sup>2</sup> by her divorced husband the earl of Douglas: from which it was vehemently suspected that Howard hoped "by reason of marriage in so high a blood" to have some chance of the crown if Henry died without heirs, or at least "making division for the same by all likelihood, having a hope and trust that the subjects of this realm would incline and bear affection to the said Lady Margaret and not to the king of Scots her brother to whom this realm hath nor ever had any affection, but would resist his attempt to the crown of this realm to the uttermost"; the suspicions were the stronger because the queen of Scots, as Henry heard, "had coveted to come into this realm and to be restored and reconciled to the Earl Douglas"<sup>3</sup> by way of ingratiating herself with

<sup>1</sup> 28 H. VIII c. 24. And cf. the allusions in Surrey's Poems.

<sup>2</sup> "Eldest sister to our said sovereign lord."

<sup>3</sup> "From whom she hath long been divorced by the laws of the church."

the English; and Howard's conduct ("to the great peril and bodily harm" of the royal person, "to the plain and manifest danger of interruption of the said act made for the limitation of the king's succession", and the more heinous as being in time of parliament and in the king's palace) was declared high treason, to be punished as such; and so for the future should be any marriage without royal consent with the king's sister, aunt, or niece.

Such were the most important acts of this short parliament. It took scarcely more than a month to do so much, and its last sitting was on 18 July 1536, when for the first time Cromwell sat as a peer, when Mr Speaker Rich compared Henry to the sun dispelling all noxious vapours and ripening all things good and necessary, and when Henry, replying through Lord Chancellor Audley, would not recognise the virtues that had been attributed to him, and ascribed all the glory to God.<sup>1</sup>

In a sense all that this parliament had done was very little: the Succession Act was never to have any direct practical effect, nor was the Minorities Act; the Act against the Pope, the Dispensations Act, and the other acts of the session, were hardly more than necessary supplementations of what had already been decisively done, except for the attainders of Fitzgerald and Howard, and those might be held to be the mere matter-of-course brutalities of a tyrant growing old in unreason and blood-thirstiness. But in another sense all these statutes held together, they were a single governmental programme, which illustrates very clearly the way in which the Henrican revolution magnified the crown by means of parliaments, and then by consequence involved the crown in a parliament which in another generation became almost a person, with almost a will, and as intractable as are generally those who have almost a will.

The Succession Act raised the power of the reigning monarch to a height hitherto unprecedented, or at least it purported to do so, for in the event the will of Henry VIII did not control the descent of his crown. For five hundred years already the law of succession had been hereditary, and for centuries before that it had been little else, yet in all that time heredity had been neither elaborated nor defined:<sup>2</sup> a

<sup>1</sup> *L.J.* 1, p. 100.

<sup>2</sup> Cf. *Henry VII*, p. 4.

crown, like a manor or anything else that would last, ought to go from father to son: but what if there was no son? no grandson? no nephew? These questions had been worked out fully enough about manors but not nearly so fully about crowns. When the crown had in fact been in dispute, dispute had been ended (till new dispute began) by parliament recognising the victor: but then, it was a parliament which the victor had called into existence. Now, a parliament was not merely recognising where the crown was but arranging by what line it should go. There was in this no intention of competing or transacting with the divine right of kings, indeed almost all the intention involved was no doubt that of Henry, which was to secure for himself a more than divine right, a right to be mortal and yet to have a will that should not die nor cease to be effective: the act was not to be misconstrued, it was never to be altered or repealed: but who was to see to these things when Henry's eyes were closed? And perhaps the persons he appointed would in consequence succeed to his throne, perhaps not: if they did, they would find it hard to deny that act of parliament was higher up the stream of authority than royal will, and even if they did not, parliament might find it easier to assert such a pre-eminence, and would certainly have no difficulty in asserting that the most masterful of English kings at his most masterful moment felt the necessity of parliamentary co-operation, and especially in dealing with the most dynastic of problems.

The Minorities Act purported to enhance even more than the Succession Act the authority of the royal person: a young successor was to come to full power at eighteen, but yet he was at the age of twenty-four to be able to annul all statutes passed not merely before he was eighteen but even before he was twenty-four. Here again may be seen Henry's determination to make his settlement permanent, and his human inclination to believe that his successor's wishes would be much more like his than was at all humanly probable, that if only the next king's will could be sufficiently fortified then the present king's will would be effectively eternised. And how enormously the next king's will was, apparently, fortified! a boy of eighteen might call and dismiss parliament as he chose, and a young man of twenty-four might have at

his mercy all the statutes of anything up to twenty-four years, during six of which he himself had been a whole king of full age and had given his personal and royal consent: and this act also attempted to make impossible its own repeal. There could hardly be a higher view of royalty than that in which this statute was passed: but it was destined to be repealed, quite easily and effectively, in the reign of a minor; and then, even if it was not seen at the time, at any rate it was bound to be seen pretty soon after, that there could hardly be a higher view of statute than that in which such a statute could be repealed within a year of Henry's death by the council he had nominated, in the parliament of his ten-year-old son.

Howard's attainder is a matter of less general importance but it has features which deserve attention—the exaggerated respect paid to royal blood; the haste with which royal wishes were fulfilled (*the Succession Act* was said to have been passed with “good and mature deliberation”, having been introduced in the lords on a Friday, and passed all stages by the following Tuesday, and Howard's attainder took only one morning); the flagrant neglect of equity by which the preamble spoke, correctly, of the succession bill agreed to by parliament “if it shall please the king”, while the operative words condemned Howard because he had engaged himself to a Tudor, which must mean he had an eye on the crown “to the plain and manifest danger of interruption of the *said act* made for the . . . succession”.

The statute extinguishing papal authority stuck to the old charge, that that authority was a forgery and a usurpation and an invasion into politics, where bishops had nothing to do, but that was not now the only charge; there was also obfuscation of God's holy word, corruption of judgments and diversity in opinions. Just as, now that papal authority was removed, some other authority had to be found for granting dispensations and faculties, so also Henry perceived that there must be authority for the maintenance and declaration of doctrine. Convocation was, as usual, sitting along with parliament, and produced the first of the Tudor attempts at fixing the doctrine of the Church of England. The subject was introduced by a complaint of the lower house of convocation to the upper against sixty-seven errors and abuses

as "causes of dissension worthy special reformation". The sixty-seven items so censured were indeed of a distinctly protestant tendency ("contained the protestant religion in ore which since by God's blessing is happily refined"), but the complainants were careful not to have it supposed that they were for Rome if they were against protestantism: they did not "intend anything to speak attempt or do which in any manner of wise may be displeasing unto the king's highness, our most dread sovereign lord and supreme head of the church of England", nor "by any colourable fashion to recognise privily or apertly the bishop of Rome".<sup>1</sup> Indeed, they had had good warning: their inaugural sermon had been preached by Latimer, they had been presided over by William Petre, as the deputy of the vicegerent of the Supreme Head, and when the vicegerent had deigned to be present in person, it had been to receive their approval of Cranmer's nullification of the Boleyn marriage.<sup>2</sup> The next time he came it was to lay before them the first official formulary of the English Church, which was subscribed by him, by the archbishops and bishops, and by the clergy of the lower house.

The Ten Articles were certainly far from being as protestant as Latimer<sup>3</sup> would have liked, but neither were they anything like an assent to the sixty-seven complaints. What convocation found it hardest to accept was the teaching about the sacraments: they were not asserted to be only three (though Cromwell would have preferred that, and brought to the bishops' house a Scotch theologian to argue for it<sup>4</sup>), but they were not asserted to be more than three, baptism, penance and the eucharist, the rest of the traditional seven being passed over in silence: the people were to be taught to believe "the whole bible and the three creeds", and that justification depended on contrition, faith, charity, and good works: images might be used, but with due caution, and so

<sup>1</sup> Wilkins, *Concilia*, III, p. 805, from Fuller, *Church History*, v, p. 208.

<sup>2</sup> Dixon, *History of the Church of England*, I, pp. 389 ff.; Burnet, I, pp. 340 ff.; subscribed by both houses of convocation 28 June 1536, *L. and P.* x, no. 896.

<sup>3</sup> Other protestant bishops were Goodrich of Ely, Shaxton of Salisbury, Foxe of Hereford, Hilsey of Rochester, Barlow of St David's.

<sup>4</sup> Dixon, I, pp. 411 ff.; J. Gairdner, *History of the English Church*, IV, p. 175: the Scotchman was Alex, Alan, or Alesius.

with prayers to saints, and ceremonies; "as to purgatory, they were to declare it good and charitable to pray for the souls departed... and to give alms for that end. But since the place they were in, and the pains they suffered, were uncertain by the scripture, we ought to remit them wholly to God's mercy", and surrender those abuses as that "the pope's pardons did deliver souls out of it, or masses said in certain places, or before certain images".<sup>1</sup> Reginald Pole found in the articles "nothing much at variance with the Catholic standard, except that their authorship is ascribed to the king in the title—a thing of which it is difficult to say whether it be more foolish or impious.... The mercy of God<sup>2</sup> has protected the faith of the people".<sup>3</sup>

The articles were published with a preface setting out their origin.<sup>4</sup> Henry explained that of all the cares committed by God to his princely office he esteemed, as he always had, the chief to be

that His holy word and commandments may sincerely without let or hindrance be of our subjects truly believed,... and that unity and concord in opinions, namely in such things as doth concern our religion, may increase and go forward,... and being very desirous to eschew not only the dangers of souls but also the outward inquietness which by occasion of the said diversity in opinions (if remedy had not been provided) might perchance have ensued;

therefore he had not only studied himself but also summoned

convocation, for the full debatement and quiet determination of the same: where... they have concluded and agreed upon the said matters, as well those which be commanded of God and are necessary to our salvation as also the other touching the honest ceremonies and good and

<sup>1</sup> Burnet, I, p. 346; purgatory had all this year and before been a principal topic of preachers, from Cranmer downwards: Chapuys thought that this was intended to facilitate disendowment: cf. *L. and P.* VII, p. 324; IX, no. 704; X, nos. 282, 283, 308.

<sup>2</sup> But in common fairness it is difficult to deny that Henry was the instrument of this mercy: as the French ambassador was to report four years later (6 August 1540, *L. and P.* XV, no. 953), "it is difficult to have a people entirely opposed to the new errors which does not hold with the ancient authority of the Church and of the Holy See, or, on the other hand, hating the Pope which does not share some opinion with the Germans. Yet these people here will not have either the one or the other", i.e. either Roman allegiance or German opinions.

<sup>3</sup> Writing to Cardinal Contarini, *L. and P.* XI, no. 376, 31 August 1536.

<sup>4</sup> Burnet, IV, p. 172.

politic orders<sup>1</sup> . . . which their determination . . . , forasmuch as we think to have proceeded of a good right and true judgement, and to be agreeable to the laws and ordinances of God, and much profitable for the establishment of that concord and unity in our church of England which we most desire, we have caused the same to be published, willing requiring and commanding you to accept repute and take them accordingly . . . .

So it was the bishops and other most discreet and learned of the clergy who had agreed upon the articles, but how much their agreement was due to awe of the Supreme Head might be doubted, and it could not be doubted that it was the Supreme Head who published the articles and commanded their acceptance. This was further emphasised by the king's letter (12 July 1536) to the bishops forbidding till Michaelmas all preaching except by the bishops or in their presence, and all conventicles or disputations (with power to the bishops to imprison unlicensed preachers), and enjoining priests to read the articles, without any comment unless they had episcopal permission. Most signally of all was the Royal Supremacy displayed by the issue (Aug. 1536) of injunctions to the deans and inferior clergy by Cromwell, the king's vicegerent "for and concerning all his jurisdiction ecclesiastical"<sup>2</sup>—to observe the anti-papal legislation and the Ten Articles (and the abrogation of superfluous holidays), to teach them the Paternoster and commandments in the mother tongue, to see that parents brought up their children to earn their livings, to encourage bible reading and put English and Latin<sup>3</sup> bibles in their churches,<sup>4</sup> to avoid drinking and sporting, to give one fortieth of their incomes in alms or (if the incomes exceeded £100) to keep exhibitioners at school or university, and to keep up their houses and churches. Two years later (5 Sept. 1538) another set of injunctions issued on the same authority ordered the encouragement<sup>5</sup> of bible reading, and especially the provision of a bible in every church, were harder on pilgrimages and images, demanded the delation of any

<sup>1</sup> Cf. below, p. 330.

<sup>2</sup> Wilkins, III, pp. 813 ff.

<sup>3</sup> Cf. above, p. 114, and p. 393 below.

<sup>4</sup> This article is omitted from Wilkins, who copied from Cranmer's register, but it appears in Bonner's Register: cf. Burnet, I, p. 311.

<sup>5</sup> *L. and P.* XIII (2), no. 281; Wilkins, III, pp. 815–17 (where it is dated 1536): cf. Gairdner, *Lollardy*, II, p. 333; Burnet, IV, pp. 341–6, and pp. 395, 451 below.

one who hankered after Rome or grudged at the new settlement, and the keeping of a register of weddings, christenings and burials: "Item, that no parson . . . alter . . . the order and manner of any fasting day . . . nor of any prayer . . . until such time as the same shall be so ordered and transposed by the king's highness's authority, the eves of such saints whose holidays be abrogated only excepted . . . excepted also the commemoration of Thomas Becket . . .".

The king's authority could hardly be asserted more bluntly, or on matters more likely to be noticed by ordinary men: and already the absoluteness of that authority, excluding every decision which it did not choose to admit, had, by the last act of convocation, received a new expression: it was declared that neither the bishop of Rome nor any one else could summon a true general council "without the express consent assent and agreement of the residue of christian princes and especially such as have within their own realms and seignories *imperium merum*, that is to say, of such as have the whole entire and supreme government and authority over all their subjects without knowledging or recognising of any other supreme power and authority . . .".<sup>1</sup> No general council should have over the king of England any authority but what the king of England chose to admit.

The claims to ecclesiastical authority both of other princes and of the agreement of believers did not escape attention. One of the reasons against alliance with the German protestants in 1536 on the basis of the Augsburg Confession was that "If this article be granted unto, then shall the King's Highness be bound to the Church of Germany, and without their consent may not do that the Word of God shall permit . . . then shall the Bishop of Rome draw it for an argument to his part that the Word of God may be restrained to a common assent":<sup>2</sup> and another reason was the dilemma of the Germans—"either they

<sup>1</sup> Wilkins, III, p. 808: *L. and P.* XI, no. 124 refers to a variety of documents on the subject.

<sup>2</sup> Gardiner in *Letters of S.G.*, ed. J. A. Muller, p. 72: *L. and P.* X, no. 256. But note that even Gardiner was drawn by events to a reinforcing of himself with consent, cf. his letter to Somerset from the Fleet Prison 27 Oct. 1547 (*Letters*, p. 405, Foxe (ed. Pratt), VI, p. 46)—"I have none other opinion but such as the Parliament hath established".



must deny the Emperor their superior...; or else, granting that, they must, according to our opinion, which is truth, grant him head of the Church".<sup>1</sup> In 1545 Gardiner was to indicate the danger from another point of view—"If the German protestants may establish that authority to be mediators between princes, then they begin to join worldly authority to their Gospel, and play the bishop of Rome's part".<sup>2</sup> Governors did not need warning against the arrogating of ecclesiastical authority by private judgment—"For if it be persuaded the understanding of God's law to be at large in women and children, whereby they may have the rule of that, and then God's law must be the rule of all, is not hereby the rule of all brought into their hands?"<sup>3</sup> Nor did they need warning against the authority of critics and commentators—"Christ...spake plainly, 'Give to Caesar the things which are Caesar's...'. The words [of Erasmus] be these: 'Render therefore unto Caesar, *if anything appertain unto Caesar*'...".<sup>4</sup> There was a very complete awareness of the problem of authority.

Authority is one thing and power quite another, and it remained to be seen whether the Royal Supremacy would work. The deaths of Catharine and Anne no doubt weakened the dangers from abroad,<sup>5</sup> and so still more did the renewal of war between Charles and Francis: Mary had submitted to her father, and the king was reconciled to his daughter:<sup>6</sup>

<sup>1</sup> Gardiner, *Letters*, p. 73.

<sup>2</sup> Gardiner, *Letters*, p. 202: *L. and P.* xx (2), no. 871.

<sup>3</sup> Gardiner, 21 Sept. 1547, *Letters*, p. 280: Foxe (ed. Pratt), vi, p. 30.

<sup>4</sup> My italics: Gardiner, 14 Oct. 1547, *Letters*, p. 384.

<sup>5</sup> *L. and P.* x, no. 725, April 25, Henry would accept the renovation of friendship with the emperor if the emperor will express regret for procuring the censures of the bishop of Rome but with Rome he "would not accept any such reconciliation which he has already refused when made from the bishop of Rome himself"; x, no. 410, negotiations for marrying Mary to the duc d'Angoulême. Cf. p. 268 above.

<sup>6</sup> *L. and P.* x, nos. 1133, 1134, 1136, 1150; xi, nos. 6, 43, 219, 220: according to Chapuys, Cromwell was devoted to Mary now, and Mary still to the emperor, promising not to marry without his approval. Cf. *L. and P.* xi, no. 148, Chapuys to Granvelle (incidentally, beginning "I have always thought the more these people are pressed the more they grow stubborn like donkeys"), about the death that morning of Richmond ("not a bad thing for the interests of the Princess") and about the ring Cromwell had ordered for Mary (only, the king wished to have the honour of giving it to her himself) and the inscription:

Obedientia unitatem parit,  
Unitas animi quietem et constantiam;

the death of the duke of Richmond ended one hope of establishing the dynasty, but then the Seymour marriage<sup>1</sup> might reasonably be hoped to provide a better. Great pains were taken to tune the pulpit, and the press as well.<sup>2</sup> When the number of holidays was cut down<sup>3</sup> "by the king's highness's authority, as supreme head in earth of the church of England, with the common assent and consent of the prelates and clergy", the said prelates and clergy were directed "to pass over the same with such secret silence as they may have like abrogation by disuse as they have already by our authority in convocation". But the English people could not fail to notice that something was happening, most of them were conservative, more of them would be offended by the church's disendowment than could be bribed by it, it was hardly to be expected that their resentment could be limited to verbal expression or stifled by merely verbal reply. Not only by Gardiner, but by Sampson, Starkey, Fox, as well as by Cromwell's more or less anonymous scribblers and ballad-makers, were the king's proceedings defended:<sup>4</sup> but sermons, books, and ballads were not enough: Henry's government could not persuade all Henry's people: blows had to be struck, and the suppression of the Pilgrimage of Grace was a decisive victory in church and state (dichotomy which Henry denied and Gardiner ridiculed).

Constans vero animi quies thesaurus inestimabilis.  
Respexit humilitatem,  
Qui in Filio nobis reliquit  
Perfectum humilitatis exemplar.  
Factus est obediens Patri,  
Et ipsa etiam natura parentibus  
Et patrie obediendum docuit.

<sup>1</sup> A characteristic and instructive illustration of its importance is *L. and P.* xi, no. 501, 27 Sept. 1536, arranging for a full privy council at Windsor—R. Sadler to T. Cromwell, question of postponing the Queen's Coronation because of the plague: the King would like to consult all his Council, so (Admiral, Comptroller, and bishop of Hereford being here) T. Cromwell is to come at once, bringing the Chancellor if near London and the rest of the Privy Council. Capitals here as printed in *L. and P.*

<sup>2</sup> E.g. *L. and P.* x, no. 929; xi, nos. 1355, 1481, Cromwell's subvention of controversial writers and publishers (Marsiglio's *Defensor Pacis*: for Marsiglio's anti-papal doctrine, cf. C. H. McIlwain, *Growth of Political Thought in the West*, pp. 297 ff.); and nos. 72, 402, etc., the controversy with Pole, and the use of Starkey and Tunstall against him.

<sup>3</sup> Wilkins, III, p. 823.

<sup>4</sup> It was in June 1536 that Henry received from Pole the manuscript of his *De Unitate Ecclesiae*.

## CHAPTER XV

### THE DECISIVE CAMPAIGN, THE PILGRIMAGE OF GRACE, LINCOLNSHIRE

What were the exact ingredients of the Pilgrimage no one could tell surely then and no one now can confidently guess: but something of the sort must be attempted or all hope surrendered of understanding what were the relations of the English people to Henry's government. What were the rebels rebelling against? how formidable were they? how were they dealt with? Answers, however partial, to these questions will illustrate with specific examples the constitutional realities which made effective Henry's constitutional ideas and enactments: he had called a spirit from the vasty deep, the spirit of sovereignty, and he could keep that spirit on a leash because there was in England no body, corporate or single, whose will he could not count on or bend, save a few whose necks he could cut. The disturbances of 1536 are important because without the administrative resources exemplified in their suppression the ecclesiastical statutes of the last seven years might have been mere aspirations, pious or impious, and could hardly have been more than one extreme term of a dispute as certain to be compromised in practice as impossible to be moderated in theory.

Some of the Pilgrims were consciously fighting for a clearly understood conception of the way society should be made up and held together; but most of them were very vague about the royal supremacy, and not very clear about the true faith, nor always either precisely or gratefully appreciative of its vanguard the monks.

About Michaelmas 1536<sup>1</sup> there were three different sets of commissioners in Lincolnshire, one for dissolving the smaller monasteries, one for assessing and collecting the subsidy, and one for examining the condition and competence of the clergy: what these commissions were known to be doing was disagreeable enough, and there was hardly a man in the county who did not dislike some part of it, but there were

<sup>1</sup> M. H. and R. Dodds, *The Pilgrimage of Grace* . . . , 1, p. 91.

rumours of much worse things, as that all church plate would be confiscated and all churches suppressed but one in each circle of six or seven miles radius. The common people of Louth excited by a sermon preached by their vicar on 1 October 1536,<sup>1</sup> seized the keys of the church and of its treasury and set a guard upon them: then, led by a shoemaker who called himself Captain Cobbler, they burnt the books of the episcopal commissary John Heneage and all the heretical works they could find,<sup>2</sup> seized the dissolution commissioners, and swore to "be true to the commoners upon pain of death and take such part as they did".<sup>3</sup> This oath they then administered to the heads of the town and to sixty parish priests who had come to Louth to meet Heneage (and who were also engaged to warn their parishioners to assemble next day between Louth and Caistor):<sup>4</sup> and those of them who had gone off to capture the dissolution commissioners falling in with Sir William Skipworth of Ormsby, forced him to take the oath also.<sup>5</sup>

On October 3 Caistor was filled with the constables and headmen of wapentakes,<sup>6</sup> who had come to meet the subsidy commissioners, and with priests come to meet the commissary: thither went also the men of Louth, with four laymen and four clerks appointed as spokesmen, and forcibly added to their company most of the subsidy commissioners<sup>7</sup> and various other gentlemen, all of whom were induced to take the oath, and four of them to sign a letter to the king.

The reasons for their action which the commons put before these gentlemen, and the letter which they got them to sign, provide as good evidence as can be got of what were felt at the beginning of the disturbance to be its avowable motives. The commons would "take the king to be the supreme head of the church, and he shall have the first fruits and the tenth of every benefice, and shall have also the

<sup>1</sup> Dodds, II, p. 92; *L. and P.* XII (1), no. 380, esp. p. 173.

<sup>2</sup> Several Testaments in English, and Frith's book: Dodds, I, p. 93.

<sup>3</sup> *L. and P.* XII (1), no. 380, p. 174. The oath is described in the confession of John Browne as "to God, the King, and commons for the wealth of Holy Church": *L. and P.* XI, no. 854.

<sup>4</sup> XI, no. 854 and XII, no. 70 (1).

<sup>5</sup> Dodds, I, p. 95: he was a grantee of monastic property, and therefore probably took the oath unwillingly.

<sup>6</sup> Hundreds, local divisions.

<sup>7</sup> Lord Borough escaped and the servant suspected of having warned him was wounded, apparently to death: Dodds, II, p. 98.

subsidy granted to him, but he shall have no more money of the commons during his life nor he shall suppress no more abbeys":<sup>1</sup> also the commons demanded that Cromwell be given up to them, together with Cranmer and the bishops of Lincoln, Rochester, Ely, Worcester, and Dublin.<sup>2</sup> It has been suggested<sup>3</sup> that this answer embodies "the demands of the commons themselves, untouched by the influence of the clergy or the gentlemen": but the answer was given by John Porman, gentleman, who "as a captain" was administering the oath to the captured commissioners,<sup>4</sup> and seems rather to represent what the commons could be induced to avow as motive and the gentry expected to accept as excuse. In any case, it does not contain anything, except the clause about abbeys, which could very much interest Captain Cobbler's unlettered and unpropertied mob, or very much gratify a clerical party: what was more important, it showed from the outset, what remained true and decisive to the end, the common people's intimate and ineradicable persuasion that they must have at any cost the leadership of their betters.

That was shown no less clearly also by the letter which the captured commissioners<sup>5</sup> sent, by request of their captors, to the king. They had been met, when in the execution of their duty, by twenty-two thousand

of your true and faithful subjects and more by our estimation, and the cause of their assembly was (as they affirmed unto us) that the common voice and fame was that all the jewels and goods of the churches of the country should be taken from them and brought to your grace's council, and also that your said loving and faithful subjects should be put anew to enhancements and other importunate charges. . . they did swear us first to be true to your grace and to take their parts in maintaining of the common wealth, and so conveyed us. . . with them. . . unto the town of Louth. . . where as we yet remain until we know further of your gracious pleasure, humbly beseeching your grace to be good and gracious both to them and us to send us your gracious letters of general

<sup>1</sup> *L. and P.* xi, no. 853.

<sup>2</sup> Longland, Hilsey, Goodrich, Latimer, and Browne.

<sup>3</sup> Dodds, I, p. 98.

<sup>4</sup> Cf. also Madeson's evidence (xi, no. 568): he names a score of ringleaders: one he describes as gentleman, two were bailiffs, four priests, one a schoolmaster.

<sup>5</sup> Signing themselves Tyrwhyte, Madeson, Portyngton, Ayscugh.

pardon or else we be in such danger that we be never like to see your grace. . . . And further your said subjects hath desired us to write to your grace that they be yours, bodies lands and goods, at all times where your grace shall command for the defence of your person or your realm.<sup>1</sup>

Henry can have had no difficulty in drafting his reply to the commissioners. "We cannot but marvel that you being our sworn servants, and warned of their assembly, should put yourselves in their hands, instead of assembling for the surety of your own persons and for their suppression. Secondly, we take it as great unkindness that our common and inferior subjects rise against us without any ground"; churches were not to be despoiled, and anyway the proper remedy would have been by petition; no taxation was ever intended beyond that "granted to us by the act of parliament by the whole body of the realm", not one in ten of the rebels had enough income to come above the exemption line, and "he that is worth £20 is a bad subject to rebel against us for 10s." Finally,

this assembly is so heinous that unless you can persuade them for the safety as well of your lives as of theirs to disperse, and send a hundred of the ringleaders with halters about their necks to our lieutenant to do with them as shall be thought best, and thus prevent the fury of the great puissance which we have already sent against them, we see no way to save them. For we have already sent out the duke of Suffolk our lieutenant, the earls of Shrewsbury Rutland and Huntingdon, lord Darcy with Yorkshire, the lord admiral, and divers other nobles, with a hundred thousand men horse and foot in harness, with munitions and artillery, which they cannot resist. We have also appointed another great army to invade their countries as soon as they come out of them, and to burn spoil and destroy their goods wives and children with all extremity, to the fearful example of all lewd subjects.<sup>2</sup>

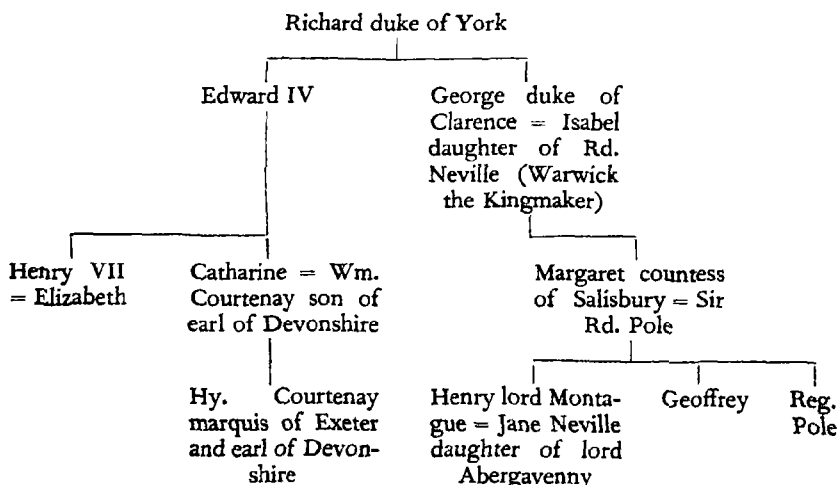
Henry (or Cromwell, in whose hand this manifesto was corrected) argued well enough, and threatened well enough too: his threatenings were a little over-frightful for modern taste: what mattered more, his boasts of what he had done and what he was in a position to do were vastly exaggerated. Could Darcy be altogether trusted? could Yorkshire in general be trusted at all? could the king quickly find a hundred

<sup>1</sup> Dodds, I, p. 99.

<sup>2</sup> *L. and P.* XI, no. 569.

thousand men who might be trusted to fight for Cromwell and against abbeys? and if so, how was he to pay them, where find artillery and ammunition? even the nobles he bragged of, would they prove very fit or very willing to defeat a campaign whose worst enemy was Cromwell? He had one piece of luck at least, foreign affairs required less attention than at almost any other part of his reign.

The north had been always and of course the most difficult part of England to manage: just lately there had been especial grievances and difficulties. Feudal and personal ties were stronger there than in the south: the Nevilles were still a force, still had Yorkist memories and family connections<sup>1</sup> which made them a source of danger and temptation to injustice,<sup>2</sup> and no doubt there were still men in the north, Nevilles and others, who thought they ought to get back Barnard Castle, and Middleham, and Sheriffhutton.<sup>3</sup> Darcy had been more outspoken than any other peer in defence of ecclesiastical independence, and accordingly had not been allowed since January 1532 to attend parliament or (for three and a half years at least) to live on his estates:<sup>4</sup>



<sup>1</sup> Abergavenny (Neville) and Montague (Pole) had been fined and imprisoned in 1521, at the time of Buckingham's execution: *L. and P.* III (1), no. 1293.

<sup>2</sup> Cf. the confession of the abbot of Jervaulx, 24 May 1537, *L. and P.* XII (1), no. 1269.

<sup>3</sup> Dodds, I, p. 20: cf. p. 255 above, and remember his communication with Chapuys, and his hankering after intervention by Charles V and James V, e.g. *L. and P.* VII, no. 1206.

even Hussey, the principal man in Lincolnshire, *novus homo* and official though he was, had been drawn into some sympathy with the White Rose party:<sup>1</sup> most dangerous of all were the Percies: the earl of Northumberland, indeed, was a weakling, and had been induced to disinherit his family by acquiescing in the assurance of its lands to the king:<sup>2</sup> but his brothers were not so feeble as he, they would run any risk to recover their birthright: there were very few in Northumberland who would not help them, save Carnabys and Grays, and many in Yorkshire who would, at least almost all the chief leaders of revolt there were fee'd servants of the Percies (and very often of some abbey as well), though it must not be assumed that the family initiated revolt.<sup>3</sup> Henry's attempt to supply the deficiencies of the north through the bastard Richmond and his council was brought to an end, on the personal and dynastic side at least, by Richmond's death on 22 July 1536: the council had always been largely clerical, and criticised as such.<sup>4</sup> Both in central and in local government it was personal and feudal administration that the north looked for, by men of the old blood and by way of the common law; they hated Cromwell, upstart and innovator, worse even than they had Wolsey, and all the more because he was the triumphant rival of Norfolk, a great nobleman and the hero of Flodden. The Yorkshire gentlemen had particular reason for detesting Cromwell and cleaving to the common law. In March 1536 a Yorkshire jury found William Wicliff not guilty of the murder of Ralph Carr, though they were "all named by the friends of Ralph Carr and his wife, except one who was thought indifferent":<sup>5</sup> the

<sup>1</sup> Dodds, I, p. 21.

<sup>2</sup> For default of heirs of his body lawfully begotten, 27 H. VIII c. 47: cf. p. 288, n. 5 above.

<sup>3</sup> R. R. Reid, *The King's Council in the North*, pp. 133, 134.

<sup>4</sup> Cf. Dodds, I, p. 30, and p. 34 above.

<sup>5</sup> *L. and P.* VIII, no. 457, Chr. Jenney sjt. to T. Cromwell, 27 March 1535, according to Gairdner, but Dodds shows cause why 1536 is more probable; Dodds, I, p. 59 and p. 62, n.f. Wicliff did not at once escape, as Mrs Carr sued an appeal for murder against him. Cf. also *L. and P.* XI, no. 1244 and XII (1), no. 6, p. 7, for the Pilgrims' resentment of this and similar cases. And cf. *L. and P.* IX, no. 37, 6 August 1535, Jenney to T. Cromwell about the monk convicted of high treason, and others indicted, but doubtful whether the words amount to high treason, so we have not arraigned them pending communication with you and others of the Council.



jurors were accordingly bound over by the assize judge to appear in star chamber, where they were heavily fined. Then there was the case of Thwaites, parson of Londesborough, accused of resisting the Supremacy and speaking ill of the king, acquitted, but nevertheless sent up to London to appear before Cromwell.<sup>1</sup> And there were other cases, especially that of Cromwell's servant Dakyn who murdered a servant of Sir Ralph Evers and went unpunished,<sup>2</sup> which persuaded some of the northern gentlemen that "his servants and eke his servants' servants think to have the law in every place here ordered at their commandment, and will take upon them to command sheriff justices of peace quorum and of session in their master's name at their pleasure".<sup>3</sup>

Certainly Cromwell was by far the leading man in the council, and that a council which was more than ever busy with policy, and a policy which there were many to dislike. It was an evil time for suitors, the king and council were so busy:<sup>4</sup> the chancellor came little to court, and when there sat in the council about parliament matters:<sup>5</sup> the council had to receive the French ambassador, demanding justice for his master's subjects in England,<sup>6</sup> and a little later it was sitting every day at Greenwich upon certain letters which he brought,<sup>7</sup> and again there was a meeting,<sup>8</sup> of half a dozen members, where Cromwell called on the French ambassador to explain why Henry should help his master against Charles and then on Chapuys to reply. Edward Ringeley,<sup>9</sup> at Calais, got permission under the privy signet to come over whenever he liked, but Cromwell and others of the council thought he ought to get license from the king's mouth, and even when he had that he did not dare come over in case the king had forgotten it, and so he wrote to Cromwell again.

Clearly it was not difficult to identify Cromwell with the government, and the main reason for disliking him was his identification with the government's ecclesiastical and financial policy. Other grievances

<sup>1</sup> Dodds, I, pp. 72, 73.

<sup>2</sup> Reid, p. 131.

<sup>3</sup> *L. and P.* XI, no. 1244: the writer (Dec. 1536) was probably Sir Thos. Tempest (Dodds, I, p. 368).

<sup>4</sup> X, no. 573.

<sup>5</sup> No. 635.

<sup>6</sup> 3 March 1536, no. 410.

<sup>7</sup> 28 April 1536, no. 748.

<sup>8</sup> 1 July 1536, XI, no. 7.

<sup>9</sup> X, no. 135.

may be left to be gathered from manifestos and petitions, but about the financial and ecclesiastical, and especially about the connection between them, something must be explained in order to make the course of the rising, or rather risings, intelligible. If taxation even in southern England was regarded as an expedient to be tried gently and infrequently, in the north it seemed so unusual as to be almost necessarily an outrage. Northumberland, Durham, Cumberland, and Westmorland were exempted from the subsidy<sup>1</sup> and enjoyed so many other remissions that they were practically not taxed at all.<sup>2</sup> That was one reason why in the last two counties there were almost no gentry or clergy engaged, but the revolt was directed mainly against enclosures and unpopular landlords,<sup>3</sup> and why Newcastle remained loyal.<sup>4</sup> The unpropertied were not likely to sympathise much with the subsidy men nor with the landowners who were incommoded by the Statute of Uses.<sup>5</sup> On the other hand, they were no more likely to be passionate about subtleties of church government or sacramental doctrine,<sup>6</sup> or to be devoted to a common law which whatever its merits did not over-favour churls against gentry or tenants against landlords: nor were they, any more than their betters, unreasonably enamoured of parsons and shavelings:<sup>7</sup> they were generally ready to resent clerical government,<sup>8</sup> not infrequently ready to find a better home for clerical property,<sup>9</sup> and they disliked tithe almost as much as any other impost.<sup>10</sup> Yet the

<sup>1</sup> The subsidy was a new invention and was still a real assessment, whereas the old fifteenth and tenth had become a conventional amount. Cf. *Henry VII*, p. 21.

<sup>2</sup> And all the king's revenue in the north stayed in the north, for the defence of the border: cf. Reid, p. 123.

<sup>3</sup> This was true also in the Yorkshire dales, where the earl of Cumberland was a very hard landlord: Dodds, I, p. 192.

<sup>4</sup> Partly also because of the great victory which the corporation there had won in Star Chamber over the artisan gilds: Dodds, I, p. 206; I. S. Leadam, *Select Cases in Star Chamber*, pp. xcvi, 75.

<sup>5</sup> Cf. above, pp. 131, 172, 205, 282.

<sup>6</sup> Reid, p. 122, referring to XII (1), no. 901 (2), and X, no. 186 (38).

<sup>7</sup> For threats to monks, to make them help the rebels, see Dodds, I, pp. 104, 105, 107.

<sup>8</sup> *L. and P.* XII (1), no. 392.

<sup>9</sup> XI, no. 1080, commons of Westmorland wanted clergy taxed and tithes abolished: cf. XII (1), no. 687; XI, no. 939, spoiling the bishop of Lincoln's palace: Dodds, I, p. 208.

<sup>10</sup> Reid, p. 123.

monasteries were the one cause on which the various classes could agree. The attack on religious houses offended many sentiments and principles: it also damaged many interests. There were numerous gentlemen who served the monasteries as stewards and so forth for fees, and more who felt with Aske that

the abbey was one of the beauties of this realm to all men and strangers passing through the same; also all gentlemen much succoured in their needs with money, their younger sons there succoured and in nunneries their daughters brought up in virtue, and also their evidences and money left to the uses of infants in abbey's hands, always sure there, and such abbeyes as were near the danger of sea-banks great maintainers of sea-walls and dykes, maintainers and builders of bridges and dykes and such other things for the common wealth.<sup>1</sup>

Monks as such were of no class, but they had come from all classes and still preserved, in their different ranks and communities, all the levels of social variation. They were well fitted, then, to hold together different classes. And the poor quite as much as the gentry felt beholden to the monasteries: their hospitality was especially valuable in the thinly populated north: they distributed also other alms, probably altogether not much more than five per cent. of their gross incomes,<sup>2</sup> but certainly enough to secure them a very considerable good-will: they kept an unusually large proportion of their land under tillage:<sup>3</sup> they were probably on the whole slightly easier landlords than most, and any way the change of landlords resulting from their dissolution was bound to inflict hardship—the new landlord was as such entitled to demand a gressum, and as a man of more than ordinary enterprise and less than ordinary sentiment did in general demand the largest possible gressum.<sup>4</sup> The historian of Tudor government in the north<sup>5</sup> reports the Pilgrimage of Grace, so far as the mass of the people were concerned,

<sup>1</sup> *L. and P.* XII (1), no. 901, p. 405. Savine, *English Monasteries on the Eve of the Dissolution*, pp. 259, 265, says that about half the monastic stewards were gentlemen, and that "of the people whose existence most clearly depended on the monastic budget by no means all were members of the lower strata of society".

<sup>2</sup> Savine, p. 265.

<sup>3</sup> Savine, p. 178.

<sup>4</sup> Fine on change of tenancy or of ownership.

<sup>5</sup> Reid, p. 124.

“mainly the outcome of the discontent roused by the steady progress of enclosures, especially of intakes,<sup>1</sup> and the rapid rise of prices, especially of rents and fines”. It was the connection between these things and the attack on monasteries, a connection real but believed to be much greater than it was, which gave the mass of the people an objective towards which many gentlemen also would be glad to march: gentlemen to lead them they must have, and this was the one great interest that moved both classes.

There were a few other incidental factors tending towards a northern rebellion in 1536 and tending on the whole towards sympathy between classes. The suppression of liberties and special jurisdictions, as at Durham and Beverley, was a blow to pride and to profit, and also (along with the restriction of sanctuary) cast adrift a large number of men *with nothing to lose and everything to gain from disorder*.<sup>2</sup> Bad weather and bad harvests had a similar effect, more extensive if less intense.<sup>3</sup> Then the poorer townsmen naturally joined the peasants, with whom they had every sort of connection, and so (with the exceptions of York, Hull, Newcastle, and Carlisle<sup>4</sup>) did the governing class in the towns, moved in many cases by the central government's recent efforts to tighten up the regulation of cloth manufacture.<sup>5</sup>

Another important factor was the difference between the spirit of the monastic communities in the north and in the south. In the north there was little or none of that accusation of abbot by monk or of monk by abbot or of that leaning towards the new faith so common in the south: the inmates stuck together and stuck to the old faith, and accordingly, though the commissioners found plenty of charges to bring against them, the charges were mostly moral, especially sexual.<sup>6</sup>

Such were the reasons why the thunderbolts which Henry hurled at Lincolnshire were not quite solid, why the rest of the north was

<sup>1</sup> Enclosure of common or waste.

<sup>2</sup> Dodds, I, pp. 36, 144; Reid, p. 129.

<sup>3</sup> Dodds, I, p. 80; Reid, p. 125. And cf. p. 319, n. 7 below.

<sup>4</sup> And even in these towns loyalty was rather half-hearted.

<sup>5</sup> Reid, p. 129, referring to *A.P.C.* XX, p. 163; *L. and P.* VI, no. 1211; VII, no. 31; XI, no. 768, and 27 H. VIII c. 12.

<sup>6</sup> Merriman, I, p. 183, referring to *L. and P.* IX, nos. 314, 321, 322, 694; X, no. 364.

rather more inclined to add fuel to the outbreak than to resist it. And there is reason to believe that these inclinations not only existed but that efforts had been made towards the organisation of them into a party. A number of local and family parties existed already—Percies, Nevilles, tenants of the earl of Cumberland, clothiers. The country was full of rumours and prophecies.<sup>1</sup> The people most apt to spread them were ecclesiastics, especially friars. All church plate was to be confiscated: every man's gold was to be taken to the mint to be tested: only one church in every five mile circuit was to be left standing: all horned cattle were to be taxed: so were baptisms, marriages, and burials: no poor man should be allowed to eat goose or capon or white bread: finally, every man was to give in a sworn return of his income and capital.<sup>2</sup>

There were natural seeds for some of these flowers of rumour: the legislation about cattle for instance,<sup>3</sup> or about butcher's prices,<sup>4</sup> or the method of collecting the new subsidy. But it looks as if they did not all arise, and certainly were not always spread, without intention.<sup>5</sup> They seem to have been more rife in the south than in the north, and to have got as far south as Devon,<sup>6</sup> but they were about in the north as well, along with mysterious prophecies couched mostly in heraldic symbols. Besides the vague prophecies there were others curiously precise, especially that there was going to be a rising and twenty thousand men taking part in it. This prophecy seems to have come from the north to the south, mainly by clerical carriers,<sup>7</sup> and no doubt it was they also who told the north that the south was full of at least passive sympathy.<sup>8</sup> And they had another method of persuasion which

<sup>1</sup> Cf. above, p. 305.

<sup>2</sup> Dodds, I, p. 77.

<sup>3</sup> 25 H. VIII c. 13; 27 H. VIII c. 32.

<sup>4</sup> 25 H. VIII c. 2.

<sup>5</sup> Cf. Dodds, I, p. 79, 102.

<sup>6</sup> Where a sumner was accused of spreading them on 5 Sept. 1536, *L. and P.* XI, no. 405, referred to by Dodds, I, p. 78. Rumours very similar got as far north as Kirkby Lonsdale, including a rumour of a tax on every child and every chimney.

<sup>7</sup> Dodds, I, p. 70.

<sup>8</sup> For clerical propaganda cf. Dodds, I, pp. 68, 74, 78, 87, 118. Some of the northerners preferred to regard the south as a hunting-ground and talked of "bringing home the goods of Cheapside and of the South": *L. and P.* XI, no. 841, p. 333.

must have been very effective: in various churches there were windows with

monks portrayed with rods in their hands, and the king kneeling naked before a monk as he should be beaten at the shrine of St Thomas. . . pardoners set forth in the declaration of the pardon of St Thomas divers points wherefore he was slain in that he did resist the king. One is that he would not grant that whosoever set his child to school should pay a tribute; also that no poor men should eat certain meats unless he paid a tribute; also that priests or clerks should be judged of any layman, whom they call secular judges.

Such words and "divers others remaining in the people's heads" they called "the articles of St Thomas and liberties of the church of England".<sup>1</sup>

When it came to action, monks, friars and parsons took on the whole a surprisingly small part, but some of them continued to be important as negotiators and propagandists. Probably the Essex vicar was right who, before ever the first Suppression Act had been passed, said that if only the religious would stand fast "and hold hard for their part, which be their rights, the king could not pull down none, nor all his council".<sup>2</sup> But in the south the religious did not stand together, and even in the north they did not provide much of the stuff of martyrs or crusaders.

In one case they did forcibly resist dissolution, and that was just before the outbreak in Lincolnshire. The priory of Augustinian canons at Hexham had a yearly value of more than £200, but it was nevertheless included among those to be dealt with under the first Suppression Act. The canons, their prior being away, met the commissioners in arms and defied the royal commission, thinking "it not the king's honour to give forth one seal contrary to another,<sup>3</sup> and afore any either of our lands goods or houses be taken from us we shall all die, and that is our full answer". The archbishop of York in vain ordered them to submit: the commissioners could do nothing because the Carnabys

<sup>1</sup> *L. and P.* VIII, no. 626; a friar converted to the New Learning writing to Cromwell in 1535.

<sup>2</sup> Dodds, I, p. 74, referring to *L. and P.* X, no. 1264.

<sup>3</sup> They had a charter of confirmation from him.

were on their side and therefore every one else against them: the canons, with reluctance and with no very clear understanding of what they were at, stumbled into alliance with little John Heron, a freebooter and a henchman of the Percies, thus antagonising all the well-to-do in Northumberland, who hated the devil less than the thieves of Tyne-dale and Redesdale.<sup>1</sup> Meanwhile the commons of Durham had risen, in a way that looks very much as if Heron had expected it, and then Ingram Percy led Northumberland in revolt and soon held the whole county but Berwick and a few castles.<sup>2</sup>

But the Durham movement itself had come from Yorkshire, and it is time to return to the date when Henry was promising Lincolnshire chastisement from Yorkshire, to see how the rising went in Lincolnshire and how it began elsewhere.

Henry had done more than write and threaten the rebels: he had Madeson, who brought the letter from them, examined by his council and got from him the names of many ringleaders.<sup>3</sup> He ordered his courtiers to be ready to proceed with Richard Cromwell<sup>4</sup> as captain against the insurgents, on horses commandeered by the lord mayor: he looked to the defences of the Tower: he summoned his daughters to court: he summoned also the duke of Norfolk, then residing in his county, out of favour because of his opposition to Cromwell: he suspended the statute<sup>5</sup> which alienated the clothmakers, and got rich men to buy cloth in great quantities: he appointed Suffolk his lieutenant for dealing with Lincolnshire:<sup>6</sup> he sent to his noblemen and others to be ready to withstand the insurrection and to muster men for that purpose,<sup>7</sup> and in London men were being pressed. Almost immediately also he and Cromwell began to receive reports from the north, both

<sup>1</sup> On the other hand, the Eskdale and Linedale freebooters in Cumberland were royalist, and injured that side in the same way: Dodds, I, p. 196, 16 Oct. 1536.

<sup>2</sup> Dodds, I, pp. 193-201.

<sup>3</sup> *L. and P.* XI, no. 568, Oct. 6.

<sup>4</sup> Thomas's nephew.

<sup>5</sup> 27 H. VIII c. 12: *L. and P.* XI, nos. 545, 549 and 603 (Norfolk on its good effects).

<sup>6</sup> Cf. XI, no. 559.

<sup>7</sup> XI, nos. 556, 557, 559, 561, 562, 579, 580: and for all this paragraph cf. Dodds, I, pp. 107 ff. The messenger found that all the knights in Lincolnshire to whom the letters were addressed were with the traitors, except Sir Robert Dymmok and Sir Robert Tyrwhyt, XI, no. 590, Oct. 7.

from noblemen there and from scouts whom Cromwell sent out, and to hear that local resources would be far from sufficient to suppress the rising,<sup>1</sup> that atrocities had already begun,<sup>2</sup> that there were "seditions in Northumberland" and that in north-west Yorkshire there were "seditions in Dent, Sedbergh, Wensleydale, etc. and their oaths to suffer no spoils nor suppressions of abbeys, parish churches, or their jewels, etc., to pay no more money".<sup>3</sup>

On 6 October 1536 the rebels came to Lincoln, where they found some guns and found that the whole of the county was joining them, though some of the gentry and clergy needed pressing.<sup>4</sup> One report of the Lincolnshire demands now was that, besides the general defence of the Church and proscription of Cromwell and the heretic bishops, monasteries should be restored "except such houses as the king hath suppressed for his pleasure only"<sup>5</sup> and that "the king shall not now or hereafter demand any money except for defence of the realm in time of war".<sup>6</sup>

Lord Hussey found that his tenants would not join him for the king, and had great difficulty in eluding the persuasions of his wife and attempts by the rebels to seize him.<sup>7</sup> The earl of Shrewsbury, who had got into motion even before receiving the king's orders and was throughout foremost on the royal side, wrote to keep him steady and to solicit his influence: "For I assure you, on my troth, all the king's subjects of the counties of Derby Stafford Salop Worcester Leicester and Northampton will be with me to-morrow night at Nottingham, to the number of 40,000, and I trust you will keep us company".<sup>8</sup>

Sunday October the 8th was the critical day, when it was decided that the whole north was astir, but decided also that the Lincolnshiremen had not found a head and that the flock of gentry whom they had persuaded or bullied on to their side were neither quite willing nor

<sup>1</sup> *L. and P.* xi, nos. 553 (Oct. 5), 567 (Oct. 6).

<sup>2</sup> On Oct. 4 Raynes, the bishop of Lincoln's chancellor, was murdered: there were reports of more and worse outrages than actually occurred.

<sup>3</sup> No. 563; Darcy, Oct. 6.

<sup>4</sup> Cf. Dodds, i, p. 111.

<sup>5</sup> Unlike the Yorkshiremen, the Lincolnshire rebels made no attempt to restore the suppressed houses: Dodds, i, p. 112.

<sup>6</sup> *L. and P.* xi, no. 585.

<sup>7</sup> Dodds, i, p. 113; *L. and P.* xi, no. 852.

<sup>8</sup> x, no. 589.



quite competent to lead them. The articles, which had been redrafted the day before, were on Sunday read to the host and approved for transmission to the king, something to this effect:

1. No more taxes except in war time.
2. The Statute of Uses to be repealed.<sup>1</sup>
3. The church to enjoy its ancient liberties, and not to pay tenths and first-fruits to the king.
4. No more abbeys to be suppressed.
5. The realm to be purged of heresy, and Cranmer, Latimer, and Longland deprived and punished.
6. The king to take noblemen for councillors and to surrender to the vengeance of the commons or at least to banish Cromwell, Rich, Leigh, and Layton.
7. Free pardon for all who had taken part in the insurrection.

The same day there came two messengers, one from Beverley with news of the rising there and a request for a copy of the Lincoln articles (which was sent accordingly), the other from Halifax, with word that their country was up too and ready to do as the men of Lincolnshire did. The commons were wild with enthusiasm, and clamoured to advance, but the gentlemen persuaded them that it would be high treason to go on before they had the king's answer: the new set of articles was sent up to London and the commons were prevailed on to stay in Lincoln, on condition that they should have the goods of those who would not join them, and with a reminder that "it was time to sow wheat and till the land against next year". Already some days<sup>2</sup> before, the commons of Louth had rung their bell and gathered in the market-place, "saying they would be betrayed by the men of worship, all of whom that day urged their companies not to go forward".<sup>3</sup> The union of classes was far from whole-hearted in Lincolnshire: rebellion was mixed with legalism in a way to get the disadvantages of both: less afraid to strike than unwilling to wound the royal majesty, they struck far enough to call forth a terrible reaction yet not deep enough to effect any of their purposes.

In Yorkshire these defects were less pitiable large because in York-

<sup>1</sup> Cf. above, pp. 131, 172, 205, 282, 311.

<sup>2</sup> *L. and P.* x, no. 589.

<sup>3</sup> *L. and P.* xi, no. 971; and for all this paragraph cf. Dodds, 1, pp. 114, 115.

shire there was Robert Aske, but even there they were large enough to serve the king's purpose: and then, within five days of Aske's first stirring, Lincolnshire was paralysed.

For the last six months riot had been sputtering up and down Yorkshire—at Beverley over the municipal elections in April, at York over the Knavesmire enclosures in May and again over the acting of a religious interlude in August, in the West Riding trouble with the subsidy commissioners, in the dales no-rent campaigns.<sup>1</sup> It was not surprising therefore if the commons of the shire, on hearing rumours of what was happening across the Humber and seeing the beacons, should begin to stir. Robert Aske, on his way up to London,<sup>2</sup> was very few miles into Lincolnshire when he was stopped and made to take the oath to God, the king, and the commonwealth: he would have liked to get back but the rebels would not let him, though they did let him send back two nephews who were travelling with him.<sup>3</sup> On the 6th he was able himself to get back to his own country. He at once put himself at the head of the stir in Yorkshire, but endeavoured to keep it under cover till the answer to the Lincoln articles should be known: thinking that answer had come, he went to Lincoln on October 7, but learnt nothing except that gentry and commons were at logger-heads and both inclined to think him a deserter: by October 10 he was back in Yorkshire,<sup>4</sup> and by then the explosion had begun, the spark having come from Beverley,<sup>5</sup> where bells had been rung<sup>6</sup> and proclamations made in Robert Aske's name that every one should be sworn to God the king and the commons, and to maintain holy church,<sup>7</sup>

<sup>1</sup> Cf. p. 311, n. 3 above, and Reid, p. 134.

<sup>2</sup> For the Michaelmas term, he being a barrister.

<sup>3</sup> Dodds, I, pp. 105, 106.

<sup>4</sup> Dodds, I, pp. 141, 142.

<sup>5</sup> Where the partisans of the archbishop were roughly handled: cf. Dodds, I, p. 147.

<sup>6</sup> Ringing the bells backwards, and lighting the beacons, were throughout the signals for rising.

<sup>7</sup> *L. and P.* XI, no. 841, p. 333. Aske denied any responsibility for this proclamation, XII (1), no. 6, referred to by Dodds, I, p. 145. The people of Dent and of neighbouring parishes were sworn "to whom and wherefore they could not tell": at Beverley a gentleman said the rebels might be sure of Holderness, because he could spend £40 p.a. there: in Beverley market they talked of going to London to have four deceivers in the realm and to bring back the goods of Cheapside and the South, XI, no. 841.

and whence letters were sent under the town seal to Lincoln and York. By 10 October 1536 the whole countryside<sup>1</sup> was in arms, Aske was clearly in command, and issued his first proclamation—directing all men to assemble next day on Skipwith Moor, “and there appoint your captains Master Hussey Master Bapthorp and Master Gascoygne and other gentlemen, and to give warning to all beyond the water to be true to the king’s issue, and the noble blood, and preserve the church of God from spoiling; and to be true to the commons and their wealths; and ye shall have to-morrow the statutes and causes of your assembly and petition to the king...”: signed by Robert Aske “chief captain of Marshland<sup>2</sup> the isle<sup>3</sup> and Howdenshire”, Thomas Metham, Robert Aske junior, and four others, “captains of the same”.<sup>4</sup>

On the same day archbishop Lee, alarmed by reports that the Beverley men intended to kill him and the Marshland men to make him their captain, took refuge with Darcy in Pontefract Castle.<sup>5</sup> The whole county was rising,<sup>6</sup> and the gentlemen had difficulty in inducing the musters at Beverley to await the answer from Lincoln. They wanted to make sure also that the commons should get only such an answer as might be good for them, and tried to intercept the messengers: the attempt failed, and so did the attempt of the gentry to hear the answer before communicating it to the commons.<sup>7</sup> When the commons did hear it they were filled with enthusiasm, and “counted themselves half ashamed to be so far behind” the Lincolnshire men.<sup>8</sup>

<sup>1</sup> Of Howdenshire and Marshland.

<sup>2</sup> Between Don and Ouse.

<sup>3</sup> Of Axholme, between Trent and Don, in Lincolnshire.

<sup>4</sup> Dodds, I, p. 149.

<sup>5</sup> Dodds, I, pp. 150, 151.

<sup>6</sup> At Wressell the cry was “Thousands for a Percy!” At Beverley a friar named Ashton was given by Stapleton a passport to travel north “to raise all Rydale and Pickering Lythe”. At Watton the leader was a yeoman, John Hallam, and the occasion the suppression of St Wilfrid’s Day (Oct. 12). In Holderness the commons elected leaders for themselves but brought in as many gentlemen as they could also: many Holderness gentlemen fled to Hull, which they prepared to hold for the king. Cf. Dodds, I, pp. 149, 151, 153, 155.

<sup>7</sup> Cf. Stapleton’s difficulty with the Beverley men a few days later (“The gentlemen counsel too much, and will betray us”), and how his authority was strengthened by his offered, and refused, resignation (Dodds, I, p. 160), and cf. Stapleton’s (and Aske’s) efforts against plundering (Dodds, I, pp. 149, 151, 154, 161).

<sup>8</sup> Dodds, I, p. 152.

On 13 October 1536 the musters that had collected at Beverley, under Stapleton, met those under Aske at Wighton Hill. It was there that the movement got its name, Aske in dismissing the Lincolnshire messengers wishing them godspeed and "saying they were pilgrims and had a pilgrimage gate to go": it was there also that a high command was constituted,<sup>1</sup> and strategy agreed upon, Aske to move on York and Stapleton on Hull. The attempt on Hull failed, the persuasions or the gentry who had fled there and the dislike of Beverley sufficing to keep the wavering mayor and aldermen faithful to the king. It was while they were besieging Hull that Stapleton's men heard that the Lincolnshire insurrection was collapsing, though things were going well in Yorkshire—York taken, Sir Thomas Percy and Lord Latimer taken, all Malton and Richmondshire rising, and Friar Ashton doing great things.<sup>2</sup> It is time to go back and see how and why the men of Lincolnshire had retreated when everything was thus going their way.

The counter-measures of the government had not been easy: the best soldier in England (if there was a good one at all) was Norfolk, and him the king could not fully trust:<sup>3</sup> not till October 9 did the king receive Darcy's report of what was happening in Yorkshire, and then there was a rumour that Sir Thomas Percy had joined the rebels with thirty thousand men:<sup>4</sup> there was disaffection in the south, even in royal Windsor:<sup>5</sup> thirty-four small guns were taken out of the Tower, but the horses procured with great difficulty for their transport had broken down and thirteen of them had to be sent back,<sup>6</sup> and Richard Cromwell caught up with Suffolk at Stamford only by leaving the rest behind.<sup>7</sup> At Stamford Suffolk had to wait, for want of ordnance and money: not till the 13th had he as many as five thousand men (two thousand of them unarmed) and his artillery (only sixteen pieces). Similarly, Shrewsbury

<sup>1</sup> Two Stapletons, Phil. Waldeby and Robert Hotham, with Aske and his friends.

<sup>2</sup> Cf. Dodds, I, pp. 156–63.

<sup>3</sup> Cf. Dodds, I, pp. 119 ff.

<sup>4</sup> *L. and P.* xi, nos. 598, 611, 714.

<sup>5</sup> xi, nos. 584, 714: on the other hand, Fitzwilliam (no. 584), in Surrey, "never saw men more willing to serve the king", his only difficulty being that in such urgency men were no use without horses. In fact the king's officers never found any difficulty about raising men, the difficulty was to pay and arm them, and to be sure they would do what they were told.

<sup>6</sup> xi, nos. 714, 600.

<sup>7</sup> xi, no. 672: the day before Suffolk had reported his deficiencies so great that the issue of a battle would be doubtful, and he expected the rebels at Stamford (no. 615).

(who had been joined by Rutland and Huntingdon) could not advance from Nottingham for want of money and of a communication from the king.<sup>1</sup> But actually on the 13th Suffolk heard that the Lincolnshire men were dispersing, on the 15th he moved forward, and by the 17th was in Lincoln.<sup>2</sup>

The truth was, the king's forces had won the Lincolnshire campaign on October 10 without striking a blow, for on that day the king's letter<sup>3</sup> arrived at Lincoln, and made a fatal impression on the hesitations of the gentry and the mutual distrusts between them and their followers (who were also in some sense their captors). They had not got to Stamford, as Suffolk had feared they would, because the gentry had persuaded the commons to wait for the king's answer: now they were never to get anywhere, because the answer when it came quite split their union. Moigne read the king's letter, and as there was a little clause in it which might stir the commons, he omitted it; whereupon a canon, the parson of Snelland, said the letter was falsely read, and Moigne was like to be slain. Some two hundred of the commons withdrew into the cloister, where they said the gentlemen intended clearly to deceive them, and after much debate agreed to kill Moigne and his fellows; but their servants got them out of the chapter-house, and the commons put off killing them till the morning. The gentlemen "debated what was to be done, and Moigne advised that if they could make reasonable force they should fight<sup>4</sup> rather than go forward, otherwise that they should keep the Close till the king's power should rescue them. Sent for the most honest men of their companies and persuaded them of the danger of going forward".<sup>5</sup>

Next morning the gentlemen, "in harness, with the honest men in array" told the commons they would not go forward till they had the king's answer to their request for pardon; some, including the canons of Barlings, had begun to slip away already;<sup>6</sup> that night arrived Lancaster herald. On October 12 he read the proclamation from Shrewsbury, Rutland and Huntingdon—"to commons of Lincolnshire now rebelliously assembled. . . . That you and every of you, as many as take

<sup>1</sup> Also, Shrewsbury was a sick man.

<sup>3</sup> I.e., the one reproduced on p. 306 above.

<sup>5</sup> *L. and P.* xi, no. 971.

<sup>2</sup> *L. and P.* xi, nos. 808, 780.

<sup>4</sup> I.e., against the commons.

<sup>6</sup> Dodds, I, p. 128.

yourselves to be the king's true subjects...do depart home...; and they that will not, at your uttermost perils. And, by the grace of God, else we shall shortly despatch you, and God save the King, our Grace's Sovereign Lord".<sup>1</sup> And the herald "used himself so wisely with the commons that after much persuasion they agreed to go home, leaving the gentlemen to sue by letter for their pardon. Thus most of them departed before Friday night", the 13th,<sup>2</sup> and by then they had also promised to stop the boats on Humber, Ouse, and Trent;<sup>3</sup> on the 15th the king, believing that the crisis was over, countermanded the orders for the southern musters to meet at Amphill,<sup>4</sup> and Suffolk began his advance from Stamford, instructing Shrewsbury to move on from Nottingham.<sup>5</sup> It was on the 15th also that Henry sent to Suffolk his acceptance of the Lincolnshire surrender, with instructions to "examine the gentlemen and urge them to declare how this matter began, keeping their examinations in writing and dismissing them with good words; retaining such as you think for their offences should be sent hither", at least nine of them: Shrewsbury was to be ready to march into Yorkshire if necessary, and Suffolk to occupy Lincoln and to survey the cathedral and close with a view to the establishment of a garrison there.<sup>6</sup> Suffolk accordingly reached Lincoln on the 17th Oct. 1536;<sup>7</sup> Shrewsbury was to obey only too well the order to advance, thus separating the vanguard of the royal forces too widely from the main body and seriously embarrassing the campaign in Yorkshire: Suffolk himself was in none too strong a position, with only three thousand men, surrounded by a population still surly and excitable.<sup>8</sup>

Along with the instructions sent to Suffolk on the 15th came a very characteristic proclamation accepting surrender and promising mercy.<sup>9</sup> On Lancaster herald's report of the Lincolnshire men's hearty repentance of their rebellion and detestation of the tempters that caused you to rebel against us, your prince and natural liege lord, that hath reigned over you these twenty-eight years and with our great

<sup>1</sup> *S.P.* I, p. 462.

<sup>2</sup> *L. and P.* XI, no. 971.

<sup>3</sup> *L. and P.* XI, nos. 854, 691, 694, referred to by Dodds, I, p. 130.

<sup>4</sup> XI, nos. 720, 721.

<sup>5</sup> XI, no. 808.

<sup>6</sup> XI, no. 717.

<sup>7</sup> XI, no. 780.

<sup>8</sup> Cf. Dodds, I, pp. 135, 136.

<sup>9</sup> *L. and P.* XI, no. 718; *S.P.* I, p. 468.

labour study charge and travail preserved you from the danger of all strangers and foreign enemies...; considering that you be all our natural subjects born; considering you have by falsehood and untruth been trained and brought to this rebellion; considering you have made most humble suits unto us to be gracious lord unto you; considering the great effusion of Christian blood that by the extreme persecution of you for this most traitorous offence (which nevertheless we may and ought by the order of justice in this case to administer unto you) should ensue and follow, by the utter destruction of all you your wives and children; and considering the great danger that by the effectual execution of the same upon you should ensue to your souls, who have given this occasion; so that, unless the most infinite mercy of God, both bodies and souls should perish together, whatsoever your deserts be: We have forced ourselves to temper justice with mercy:

but it was not a well-defined nor an all-embracing mercy—if they would leave all their arms in Lincoln and go home and there, “in God’s peace and ours”, mind their own business, then they should have much more mercy than they deserved, and Henry would “extend our princely pity so far towards the most part of you that all the world shall see our mercy shine far above that we be bounden unto”. *The most part of you*: it was the acceptance of a surrender at discretion.

And it was only after that, indeed not till four days after that, that Henry deigned to make his reply to the Lincolnshire articles. On October 19 Henry sent further instructions to Suffolk, including this reply for publication, but even then without date or seal.<sup>1</sup> It had an ominous title, *Answer to the petitions of the traitors and rebels in Lincolnshire*:<sup>2</sup>

First we begin and make answer to the fourth and sixth articles, because upon them dependeth much of the rest. Concerning choosing of counsaillours, I never have read heard nor known that princes’ counsaillours and prelates should be appointed by rude and ignorant common people... How presumptuous then are ye the rude commons of one shire, and that one of the most brute and beastly of the whole realm, and of least experience, to find fault with your prince for the electing of his counsaillours and prelates; and to take upon you, contrary to God’s law and man’s law, to rule your prince... As to the

<sup>1</sup> *L. and P.* xi, no. 780.

<sup>2</sup> Printed in *State Papers*, i, p. 463.

suppression of religious houses . . . know that this is granted us by all the nobles spiritual and temporal of this our realm, and by all the commons of the same, by act of parliament; and not set forth by any counsaillour or counsaillours upon their mere will and phantasy, as ye full falsely would persuade our realm . . . :

and as to the alleged diminution of divine service and useful hospitality, that is not true at all, but there has been a great diminution of vice and mischief.

Touching the Act of Uses,<sup>1</sup> we marvel what madness is in your brain or upon what ground ye would take authority upon you to cause us to break those laws and statutes which by all the nobles knights and gentlemen of this realm, whom the same chiefly toucheth, hath been granted and assented to, seeing in no manner of thing it toucheth you, the base commons of our realm. Also the grounds of those uses were false, and never admitted by any law . . . As touching the fifteenth . . . , think ye that we be so faint-hearted that perforce ye of one shire (were ye a great many more) could compel us with your insurrections and such rebellious demeanours to remit the same? . . . As touching the first-fruits . . . , it is a thing granted us by act of parliament also, for the supportation of part of the great excessive charges which we support and bear for the maintenance of your wealths and others our subjects.

And you have complained often enough before of ecclesiastical wealth, and anyway the payment of first-fruits does not affect you.

Wherefore, sirs, remember your follies and traitorous demeanours and shame not your native country of England . . . , withdraw yourselves to your own houses every man . . . and cause the provokers of you to this mischief to be delivered to our lieutenants hands or ours,<sup>2</sup> and you yourselves to submit you to such condign punishment as we and our nobles shall think you worthy:

otherwise, if there were not due submission to sovereignty, there would be for the rebels (and for their wives and children) "the utter adventure of total destruction and utter ruin by force and violence of the sword", as well as "the indignation of God".

This was a very characteristic document: its rhetoric may have been unfair but it was genuine, and based on a few simple principles which

<sup>1</sup> Cf. above, pp. 282-5.

<sup>2</sup> A hundred was suggested as a suitable number (*S.P.* 1, p. 466).



no one would deny—the divine obligation to obey, the right and duty of princes to rule “your native country of England”. Its allegations of fact were unscrupulous but they were not very easily corrected, nor even very easily denied. Its argument began by going straight to the main point<sup>1</sup>—a claim of farmers and labourers to choose a king’s counsaillours was merely preposterous. Where the king was most open to attack he covered himself, and his counsaillours, with all the nobles spiritual and temporal and all the commons:<sup>2</sup> he disdained the suggestion that a distinction might be made between monasteries suppressed, allowably, at his personal choice and monasteries suppressed, reprehensibly, by the policy of his servants. He defended the Act of Uses not only with his parliamentary pretext but also with the supreme vindication that the new statute was, as statute should be, the affirmation on an actual point of what the law had always properly been. And finally, the whole document and every part of it drove wedge after wedge between gentry and churls, and between laity and clerks.

That is really all that matters about Lincolnshire, where there were no longer more than a few embers to be quenched in the blood of a few victims, though as long as Yorkshire was up it was not considered safe to make the Lincolnshire men give up their weapons, “and as yet no cruelty may be showed”;<sup>3</sup> but Henry was quite wrong in supposing that Yorkshire and the north would be equally easy to manage, or rather, would be damped even more quickly than they had been fired by example from Lincoln. On October 20 Hull surrendered to Stapleton, on condition that none of the inmates should be forced to take the Pilgrims’ Oath; by that time Stapleton was fully assured of the “fall of Lincolnshire” and had an exaggerated opinion of Shrewsbury’s advance, but did not give way to panic.<sup>4</sup> Meanwhile Aske was dealing with York, where it was certain that there was not, and Pontefract, where it was very doubtful whether there was, either power or will enough to resist him.

<sup>1</sup> Cf. p. 318 above.

<sup>2</sup> “Knights and gentlemen” for the Uses Act: cf. previous page.

<sup>3</sup> Oct. 19, Rd. Cromwell to his uncle, Dodds, 1, p. 165.

<sup>4</sup> *L. and P.* XII (1), no. 392, p. 190.

## CHAPTER XVI

### THE DECISIVE CAMPAIGN, THE PILGRIMAGE OF GRACE, YORKSHIRE

It was on 16 October 1536 that the Pilgrims entered York: there were certain safeguards against pillaging and for the rest the intentions with which they entered were indicated by a proclamation issued by Aske and circulated throughout the country and by a hastily drafted set of articles which he sent to the mayor. The proclamation was to

Lords, knights, masters, kinsmen, and friends. We perceive that you be informed that this assembly or pilgrimage that we by the favour and mercy of Almighty God do intend to proceed in is because the king our sovereign lord hath had many impositions of us; we doubt not but ye do right well know that to our power we have been always ready in payments and prises to his highness as any of his subjects; and therefore to ascertain you of the cause of this our assembly is this. Forasmuch that such simple and evil-disposed persons being of the king's counsell hath not only incensed his grace with many and sundry new inventions which be contrary to the faith of God and honour to the king's majesty and the commonwealth of this realm, and thereby intendeth to destroy the church of England and the ministers of the same as ye do know as well as we: but also the said counsell hath spoiled and robbed, and further intending utterly to spoil and rob, the whole body of this realm and that as well you and us...; for this pilgrimage we have taken it for the preservation of Christ's church, of this realm of England, the king our sovereign lord, the nobility and commons of the same, and to the intent to make petition to the king's highness for the reformation of that which is amiss within his realm and for the punishment of the heretics and subverters of the laws.<sup>1</sup>

The proclamation's repudiation of material aims was not very clear or convincing, though it does not follow that it was not sincere: "the whole body of this realm, you and us", gentry and commons, laity and clergy, were championed without much discrimination. The articles were rather more specific, and did rather more clearly put religion in

<sup>1</sup> Dodds, I, p. 175.

the forefront: (1) By the suppression of so many religious houses the service of God is not well performed and the poor are unrelieved. (2) The act of uses to be repealed. (3) The fifteenth, as levied on sheep and cattle, is intolerable in Yorkshire. (4) "The king takes of his council and has about him persons of low birth and small reputation, who have procured these things for their own advantage, whom we suspect to be lord Cromwell and Sir Richard Rich." (5) There are heretical bishops. "We think the beginning of all this trouble was the bishop of Lincoln."<sup>1</sup>

Aske also posted ("by all the whole consent of all the headsmen of this our Pilgrimage of Grace") on the minster door an order for "religious persons to enter into their houses again", and to be supplied with necessities on credit provisionally: and on October 17 he communicated to his officers a new oath which he had drafted, which went further than any previous formulary towards disclaiming all material objects.

The Oath of the Honourable Men. Ye shall not enter into this our Pilgrimage of Grace for the Commonwealth, but only for the love that ye do bear unto Almighty God his faith, and to holy church militant and the maintenance thereof, to the preservation of the king's person and his issue, to the purifying of the nobility, and to expulse all villein blood and evil counselors against the commonwealth from his grace and his privy counsaill of the same. And that ye shall not enter into our said pilgrimage for no particular profit to yourself nor to do any displeasure to any private person, but by counsel of the commonwealth... afore you the Cross of Christ, and in your hearts his faith, the restitution of the church, the suppression of these heretics and their opinions...<sup>2</sup>

Even here politics could not be kept out: it was expressly excluded by the first clause, and by all the last paragraph, but it stood, and shouted, in every intervening word: nor was Aske strong enough to make all his followers keep "particular profit" out of the enforcement of the decision to seize the goods of all who refused the oath.

<sup>1</sup> *L. and P.* xi, no. 705.

<sup>2</sup> Dodds, I, p. 182: printed with the original orthography by the Chetham Society, vol. xix, new series, 1890, p. 50.

Pontefract Castle, and Scarborough and Skipton, were now (17 Oct. 1536) the only places in Yorkshire held for the king, and in Pontefract the castle was beleaguered by the townsmen, its commander<sup>1</sup> distracted by divergent loyalties, its garrison quite untrustworthy and its equipment insufficient. All this Aske knew well enough, partly from Darcy's steward, who had been sent to ask him for a copy of the oath and articles, partly from Maunsell, vicar of Brayton, who energetically commanded the Pilgrims round Pontefract. On October 17 Darcy sent by his son Arthur a message to the king protesting that he had no intention "but to do faithful service to your highness as I have done to you and your father above forty-six years" and describing how the commons were swearing every man, "priest and other", and sparing no man's goods,<sup>2</sup> and how "there is no likelihood of vanquishing the commons with any power here". This was endorsed by Darcy "and none answer again".<sup>3</sup>

Two days later Aske was in Pontefract Castle on safe-conduct, and there addressed its commander<sup>4</sup> and the gentlemen with him, including the archbishop of York. The lords spiritual, he said, had not done their duty "in that they had not been plain with the king's highness" for the quenching of heresy, defence of religion, and prevention of irreverence.

And to the lords temporal the said Aske declared, they had misused themselves in that they, semblably, had not so providently ordered and declared to his said highness the poverty of his realm, and that part specially, and wherein their greves might ensue, whereby all dangers might have been avoided: for insomuch as in the north parts much of the relief of the commons was by succour of abbeys, and that before this last statute thereof made the king's highness had no money out of that shire in a manner yearly, for his grace's revenues there yearly went

<sup>1</sup> Cf. Dodds, I, pp. 143, 168, 171, 172, 181, 185: also he was nearly eighty, and nearly crazed for want of news.

<sup>2</sup> The original draft added "and say they will have the king's money wherever they find it": but this Darcy crossed out.

<sup>3</sup> *L. and P.* XI, no. 760.

<sup>4</sup> In Aske's letter summoning Darcy to deliver he "rehearsed how the commons were gnawen in their conscience with spreading of heresies, suppression of houses of religion, and other matters touching the commonwealths, to their impoverishment" (*E.H.R.* v, p. 335), a good instance of the difficulty that was found in separating pocket and conscience, private good and public.

to the finding of Berwick. And that now the profits of abbeyes suppressed, tenths and first-fruits, went out of those parts. By occasion whereof, within short space of years there should be no money nor treasure in those parts... , so that of necessity the said country should either pactise with the Scots, or for very poverty be enforced to make commotions...<sup>1</sup>

This was a revival of the aristocratic doctrine of the thirteenth or fourteenth century, the doctrine of the king's obligation to listen to the advice of his grandees, lay and clerical, *consiliarii nati* in church and state. It was doctrine very welcome, no doubt, to Darcy, "the good old lord", and rather tempting to Lee, as an archbishop. It was doctrine not unwelcome to some on the other side: the council was as busy<sup>2</sup> as ever and as ubiquitous,<sup>3</sup> and as grand,<sup>4</sup> as Cromwellian and as royalist: but its active and, it might seem, most indispensable member and executive was Norfolk, and Norfolk was daring to write that the northern marches would be better ruled by noblemen, and even when the council in London asked him whether if the king "appoint the meanest man to rule there, is not his Grace's authority sufficient?" he did not at once recant, but had to be told again that the king would not be bound to accept the service of none but noblemen.

The blaming of lords spiritual and temporal for all ills was polite, but it was intolerably contrary to Henry's notions of ministerial responsibility. The defender of the faith, the divinely commissioned head of this imperial isle,<sup>5</sup> could not admit that the condition of his realm was due to governmental misinformation: all decisions were his, and his decisions were of course well informed.

Aske's other argument would also appeal to the old-fashioned. The north did not expect to be taxed: one of its special reasons was the lack of actual cash, and another was that "in those parts was neither the

<sup>1</sup> *E.H.R.* v, p. 335, from Aske's *Narrative*, submitted to the king at his request, printed by Mary Bateson.

<sup>2</sup> *E.g. L. and P. XII* (1), nos. 237, 299, 816, 1091.

<sup>3</sup> No. 594, the council with Norfolk: cf. xi, no. 866, Russell writing to T. Cromwell about the council with him in Lincolnshire, 25 Oct. 1536, *XII* (2), no. 177.

<sup>4</sup> Taking precedence of lords at Edward's christening, 15 Oct. 1537, no. 911.

<sup>5</sup> Henry "thinks himself the lieutenant of God in his kingdom", wrote Castillon to Francis 30 Dec. 1537, *L. and P. XII* (2), no. 1285.

presence of his grace, execution of his laws, nor yet but little recourse of merchandise",<sup>1</sup> so that money collected thence did not (unless it was spent on the border) flow back again: ironically, the Pilgrims were to get his grace's presence and the execution of his laws, more than they desired. Various writers have pointed out that the Tudor, and especially Cromwellian, encouragement of trade would naturally benefit the north much less than the south, but the Pilgrims do not seem to have been moved by desperate need, since the rumours found most exciting (among economic rumours at least) were rumours of governmental intention to forbid luxuries and to hinder social climbing.<sup>2</sup>

Aske, at the end of his argument, "required those present to join them, and deliver the castle, adding that if we refused he had ways to constrain us and we should find them people without mercy". Darcy replied "that he neither could nor would deliver the king's castle", and Lee asked permission (which Aske refused) to address the Pilgrims. But that night "they determined with sorrow to yield",<sup>3</sup> for lack of men, food, and equipment, and partly also because of Aske's threat to burn Darcy's houses and kill his son's children.<sup>4</sup> On October 21, Aske being in haste to forestall relief by Shrewsbury, Pontefract Castle "was yielded, and the lords spiritual and temporal and knights and squires there being sworn. And after that time, the country daily assembled of all parts, and the said Aske tried out their men. . . and when he had taken the castle of Pontefract and sworn the lords there, then he would have yielded up his white rod and name of captain to the nobility there",<sup>5</sup> but they refused, according to Aske, for fear of mutual jealousy.

The same day (21 Oct. 1536) Thomas Miller, Lancaster herald, sent by Shrewsbury, "overtook<sup>6</sup> certain companies of the said rebellious being common people of the husbandry, which saluted me gently and gave

<sup>1</sup> *E.H.R.* v, p. 336.

<sup>2</sup> Cf. pp. 314-15 above.

<sup>3</sup> Archbishop Lee's deposition, *L. and P.* xii (1), no. 1022, pp. 465, 466; Dodds, 1, p. 187.

<sup>4</sup> These threats were reported to Lancaster herald by Derby on Nov. 13, *L. and P.* xi, no. 1086, p. 436.

<sup>5</sup> *E.H.R.* v, pp. 336, 343.

<sup>6</sup> *S.P.* 1, pp. 485 ff. Lancaster herald reported that the commons seemed weary of the life they were in, and that their main grievances were fears of taxation.

great honour to the king's coat of arms": he proceeded to the market cross and would have read his proclamation<sup>1</sup> but was sent for by Aske, and having passed through his guards ("in harness, very cruel fellows") came to the castle hall: and there again he would have read the proclamation, but Aske, "keeping his port and countenance as though he had been a great prince, with great rigour and like a tyrant; who was accompanied with the archbishop of York, the lord Darcy, Sir Robert Constable, Mr Magnus, Sir Chris. Danby, and divers others", said that it should "not be read at the market cross nor in no place amongst my people", and gave the herald a copy of the Pilgrims' oath signed by himself. Aske's reason for forbidding the proclamation, Miller thought, was that if it had been read, it "and good words unto the people, that all the plough commonalty would have gone home to their houses immediately": Aske himself said it was partly for fear of the herald's life if he had confirmed to the Pilgrims the rumour of the Lincolnshire collapse, partly because "there was nothing contained in the same neither of pardon nor of no demand what was the causes of their assembly".

However that may have been, it was clear that the king was not to win in Yorkshire with a herald's coat a victory like that he had gained in Lincoln. Henry, in some such easy expectation, had countermanded the southern musters, dropped his intention of proceeding northwards in person, and resolutely kept Norfolk in the background.<sup>2</sup> But by October 18 he had made up his mind that Suffolk must stay in Lincoln and would have enough to do there,<sup>3</sup> that Norfolk and Exeter and Sir Anthony Browne must join Shrewsbury and that Cromwell must send them money as best he could, even "coining plate from the Jewel House".<sup>4</sup> Shrewsbury was to "advance with all diligence".<sup>5</sup>

The truth was that Shrewsbury had already advanced too far for strategical prudence, but now (23 Oct. 1536) he went on as far north as Scrooby, and thence to within four miles of Doncaster.<sup>6</sup> There, with no

<sup>1</sup> Probably the one indicated in *L. and P.* XI, no. 826 (4): cf. Dodds, I, p. 240 B.

<sup>2</sup> Dodds, I, pp. 241-3.

<sup>3</sup> "Meanwhile you may execute as many of the common traitors . . . as shall seem requisite": XI, no. 764.

<sup>4</sup> XI, no. 768: also nos. 764 to 770.

<sup>5</sup> No. 771.

<sup>6</sup> Dodds, I, pp. 249, 250.

strong line to hold, rations short and troops sick, he was dangerously ahead of possible reinforcement: on his flank Lincolnshire was sullen and not unlikely to flare up again, in front of him not only was practically all Yorkshire<sup>1</sup> hostile, but by far the most part of Northumberland,<sup>2</sup> Durham,<sup>3</sup> Cumberland, and Westmorland<sup>4</sup> as well. In Lancashire<sup>5</sup> the rising seems to have been more purely than elsewhere in defence of the monasteries, and the commons to have been pretty near unanimous: a principal agitator was the vicar of Clapham, who "persuaded the people that they should go to heaven if they died in that quarrel":<sup>6</sup> the centre was the abbey of Sawley, where probably was written the Pilgrims' song:<sup>7</sup>

Christ crucified !  
For thy wounds wide  
Us commons guide !  
Which pilgrims be,  
Through Goddes grace  
For to purchase  
Old wealth and peace  
Of the spirituality.  
  
Great Goddes fame  
Doth Church proclaim  
Now to be lame  
And fast in bounds,

<sup>1</sup> Beside Scarborough and Skipton which were held for the king the only royal assets were from local feuds, e.g. about Halifax the Tempests were Pilgrims and therefore the Savilles were loyal: Dodds, 1, p. 235, referring to *L. and P.* xii (1), no. 784.

<sup>2</sup> Newcastle was held for the king.

<sup>3</sup> Entirely in the hands of the commons, who on Oct. 19 undertook the siege of Skipton where Cumberland and Chris. Aske had only forty men. On Oct. 22 some of the besiegers went off to help the rebels in Lancashire, the besiegers robbed Cumberland's parks and destroyed two of his houses, and threatened to take from Bolton Priory Elinor Lady Clifford (Suffolk's daughter and the king's niece) and Cumberland's own daughters to put them at the head of the next assault, and if that failed and if he did not surrender, "to violate and enforce them with knaves": but Chris. Aske, with the help of the vicar of Skipton, a groom and a boy, got them safe through the rebel host and into Skipton Castle: xii (1), no. 1186.

<sup>4</sup> In these counties the grievances seem to have been almost wholly social: Clifford held Carlisle for the king and Dacre Naworth in spite of their feud, but Dacre was lukewarm to the point of neutrality. Cf. Dodds, 1, pp. 220-5, 250.

<sup>5</sup> Cf. Dodds, 1, pp. 212-20.

<sup>6</sup> xii (1), no. 914, p. 415.

<sup>7</sup> Verses 1, 2, and 4. The sixteen verses are printed in full in *E.H.R.* v, p. 344.



Robbed, spoiled and shorn  
 From cattle and corn,  
 And clean forth born  
 Of houses and lands.

There<sup>1</sup> may be found  
 The living ground  
 May not lay down  
 Caesar nor king,

because given for pious uses in perpetuity.

Whether Lancashire should be a dangerous threat to the government turned on the earl of Derby: he seems at first to have had some hesitations, but the commission which the king sent to him on October 20 delighted him by its width, entrusting to him Lancashire, Cheshire, North Wales, and Staffordshire,<sup>2</sup> and after that Lancashire became a separate and manageable problem, and no longer affected the general problem of the north, which was to be decided in Yorkshire.

In short, the decisive contest was between Norfolk and Aske, who besides his own host had now with him Sir Thomas Percy commanding a force estimated at nearly ten thousand men,<sup>3</sup> Stapleton with the bulk of the Beverley host,<sup>4</sup> other smaller contingents, and some five thousand men from Durham.<sup>5</sup> Norfolk had no difficulty in collecting more men than he was authorised to raise, but he had every other sort of difficulty. On 20 October 1536 he wrote to the council from Cambridge, full of jealousy of other commanders who, he thought, were being too well supported by headquarters, of desperate appeals for arms and money, and of bitter allusions to his need to employ his private resources,

<sup>1</sup> In Deuteronomy xix, "Thou shalt not remove thy neighbour's landmark". The monks also gave out that the king was not right heir because his father came in by the sword: Dodds, I, p. 218.

<sup>2</sup> "Except what Shrewsbury has": but he was busy enough in Yorkshire. The commission also instructed Derby "to take the said abbot and monks forth with violence and have them hanged without delay in their monks' apparel": *L. and P.* XI, no. 783, also nos. 806, 807.

<sup>3</sup> 21 Oct. 1536, Dodds, I, p. 230.

<sup>4</sup> 22 Oct. 1536, Dodds, I, p. 235.

<sup>5</sup> Dodds, I, p. 237. The Durham men used the badge of the Five Wounds: it was remembered that Darcy had used a similar badge years before in an expedition against the Moors, and a store of the badges was found in Pontefract Castle and distributed to the Pilgrims.

especially his French pension.<sup>1</sup> On the same day the council was writing to Norfolk that he might keep in hand more men than his authorised establishment and that he should join Shrewsbury as quickly as possible, and enquiring whether he advised the king to levy an army and advance in person against the rebels?<sup>2</sup> On October 21 Henry sent Norfolk a letter approving his plans—to try treating with the rebels first and then force if necessary, to be specially careful of the Trent bridges, and to desire Shrewsbury to establish himself strongly at Newark: for the first he was reinforced with a book written against the rebels by certain loyalists and a proclamation devised by the council.<sup>3</sup> But Shrewsbury was too far away, at Doncaster, and by October 23 Norfolk, with only four servants, had got no nearer than Newark, forty miles off.<sup>4</sup> There he heard good news, some of it false, but this much true, that the rebels had not taken the bridges at Doncaster and Rossington and that the Savilles and the Hastingses had been able to bring in their tenants to the king's forces; also it was "sore bruited in these parts" that the enemy would not fight against Norfolk.<sup>5</sup>

However, they advanced on October 24 to Barnedale Heath, near Hampole, where they were certainly in overwhelming number, better horsed and better armed (apart from Norfolk's few small cannon), and probably in better spirit. There they received Lancaster herald, sent by Shrewsbury with Norfolk's suggestion "that the causes of their assembly should be declared by four of the discreetest men...to the intent effusion of blood might be avoided".<sup>6</sup> After consulting Darcy (who was urging the printing of the Pilgrims' oath and articles, as good propaganda), Aske offered a conference on neutral territory. Next day the herald came back from Shrewsbury, not with a reply to this

<sup>1</sup> *L. and P.* xi, no. 800: cf. nos. 738 (Norfolk's authorised number 5000), 754 (discharging the excess, especially those who had no horses, 755, 766 (Exeter's and Browne's establishments to be included in Norfolk's and rates of pay), 775 (Norfolk afraid he personally will incur great expense if the king won't raise wages), 776 (cannot reach Doncaster till the 26th), 788, 793, 794.

<sup>2</sup> No. 799.

<sup>3</sup> xi, no. 816.

<sup>4</sup> Dodds, i, p. 249.

<sup>5</sup> Dodds, i, p. 250; *L. and P.* xi, no. 846.

<sup>6</sup> *E.H.R.* v, p. 337: cf. *L. and P.* xii (1), no. 6.

offer but with an admonition<sup>1</sup> signed by him and Norfolk, crying shame and alas and giving the choice "whether ye will abide the danger of battle against us, or else go home to your houses submitting you to the king's mercy". After long debate<sup>2</sup> the Pilgrim leaders were persuaded by Aske and Darcy not to reply by attack but to take up Norfolk's earlier suggestion and send four representatives to treat. At midnight (25/6 Oct. 1536) Norfolk, at Welbeck, heard from Shrewsbury that negotiation was in the wind and that his presence was required at Doncaster, in which direction he at once set off on horseback, beseeching the king by letter

to take in good part whatsoever promise I shall make to the rebels (if any such I shall by the advice of others make) for surely I shall observe no part thereof for any respect of that others might call mine honour distained, longer than I and my company with my lord marquis may be assembled together, thinking and reputing that none oath or promise made by policy to serve you mine only master and sovereign can distain me, who shall rather be torn in a million of pieces rather than to show one point of cowardice or untruth to your majesty. . . and if it chance to me to miscarry, most noble and gracious master, be good to my sons and to my poor daughter. And if my lord steward had not advanced from Trent until my coming, and that then I might have followed the effect of my letter written you from Cambridge, these traitors with ease might have been subdued.<sup>3</sup>

On October 26 the main body of the Pilgrims assembled outside Doncaster and committed five articles to the memory of Robert Bowes, who was to repeat them to Norfolk—that the faith might be preserved, and the church; that unpopular statutes might be repealed and the law stand as at the beginning of Henry's reign; that villein might be replaced by noble blood in the council; and Cromwell, Rich, and the heretic bishops be deprived and banished.<sup>4</sup> To discuss these articles a meeting was held on October 7, on Doncaster Bridge, between Norfolk's staff and some thirty of the other side, including Darcy, Latimer, and Sir

<sup>1</sup> *S.P.* 1, p. 495.

<sup>2</sup> Dodds, 1, p. 257, and references there to *L. and P.*

<sup>3</sup> Dodds, 1, p. 260: summarised in *L. and P.* xi, no. 864: here the spelling and punctuation are mine. For Norfolk's actual behaviour, cf. below, especially p. 355.

<sup>4</sup> Dodds, 1, p. 263.

Robert Constable: the main body of the Pilgrims stood on parade all day, and Aske stayed with them; even so there were suspicions that the gentlemen were making terms for themselves, at the expense of the commons.<sup>1</sup> The king's officers were not authorised to promise pardon to any individual: "Talbot," said Darcy to Shrewsbury, "hold up thy long claw and promise me the king's favour, and I will come to Doncaster to you": but Shrewsbury could not promise. In spite of these difficulties, a provisional agreement was reached: Norfolk, with Ralph Ellerker and Robert Bowes for the Pilgrims, was to take their petition to the king; meanwhile, both armies were to be disbanded and a truce observed on both sides. It is not clear how far, in order to get these terms, Norfolk may have gone by way of promising sympathy and co-operation with the Pilgrims.<sup>2</sup>

The terms were sent off to Derby and Cumberland<sup>3</sup> and to the rebels arrayed against them: Norfolk and Shrewsbury reported to the king<sup>4</sup> that the gentlemen, upon the declaration of his "most gracious free pardon", had "dispatched home to their houses all the said commons". On the 29th Norfolk wrote to the council<sup>5</sup> from Tuxford:

Alas, my good lords, I have served his highness many times without reproach, and now enforced to appoint with rebels; my heart is near broken... notwithstanding that in every man's mouth it is said in our army that I never served his grace so well as now... All others here joyful and I only sorrowful. Alas that the valiant heart of my lord steward would not have suffered him to tarry about Trent... Good my lords it was not the fear of the enemy hath caused us to appoint, but three other sore points. Foul weather and no housing for horse nor man... , hunger both for men and horses of such sort that of truth I think never Englishman saw the like. Pestilence in the town marvellous fervent... not possible to have given battle but upon apparent loss thereof; and if we should have retired in enmity assured ruin of our

<sup>1</sup> *L. and P.* xi, no. 1086, p. 437: Darcy on Nov. 14 in conversation with Somerset herald, "our own host would have runned upon us to have killed us, saying that we would betray them". From the same conversations it looks as if Norfolk tempted Darcy to give up Aske: cf. Dodds, I, p. 267 and Herbert.

<sup>2</sup> Cf. Dodds, I, pp. 267, 268.

<sup>3</sup> *L. and P.* xi, nos. 900, 901, 947, and *E.H.R.* v, p. 338.

<sup>4</sup> *S.P.* I, p. 496: Oct. 28.

<sup>5</sup> Printed Dodds, I, p. 268: summarised *L. and P.* xi, no. 909.

company. Having no horsemen and they all the flower of the north, and how at every strait they should at their will have set on the foremost part or the hindmost your wisdoms can well consider. And, my lords, according to my duty to advertise the truth, though never prince had a company of more true valiant noblemen and gentlemen, yet right few of soldiers but that thought and think their quarrel to be good and godly. The companies that came with my lord marquis and me I trust would have done their parts, and the noblemen of the rest, but I fear what the others will. . . and yet once again, my lords, woe woe woe worth the time my lord steward went so far forth. . . . Fie fie upon the lord Darcy, the most arrant traitor that ever was living, and yet both his sons true knights. Old Sir Robert Constable as ill as he, and all his blood true men. Finally, my good lords, if the king's highness should write to me to gather the army together, it is not possible to be done. And for God's sake help that his highness cause not my lord of Suffolk to put any man to death until my coming, nor to call the lord Darcy traitor, and also to stay that I be not in his displeasure until the time I may be heard. . . .

It is worth printing so much of this letter because fewer words could not indicate how keenly Norfolk foreboded Henry's fury at the notion of compromise with rebellion, how keenly he disapproved of Shrewsbury's strategy, how keenly he was aware of his own force's defects: there may have been some exaggeration, from personal and political motives, but it is hard to doubt that in the opinion of the best English military expert, to whose aid Henry had been grudgingly driven, the royal forces were inadequate to face the rebels.

That was not a satisfactory conclusion: in face of such a conclusion any government must enquire whether its commanders had done all that was possible, "and how the king's honour was considered in their so sudden recess, if the contrary might have been maintained", and who had been the real instigators of the rising; and Henry's government naturally considered also sending "a personage of honour thither with a convenient force, to remain there and step by step to bring it to a better stay, first pardoning the multitude on condition of bringing in their ring-leaders, and then punishing the great traitors".<sup>1</sup>

At the end of October the musters for the king's personal army were

<sup>1</sup> *L. and P.* XI, no. 944.

countermanded, and at the beginning of November promises of pardon, to be sued out of chancery by each individual, were drafted, excepting only Robert Aske and nine others.<sup>1</sup> On October 29 Latimer preached the sermon at Paul's Cross—

these men in the north country, they make pretence as though they were armed in God's armour, girt in truth, and clothed in righteousness. I hear say they wear the cross and the wounds before and behind, and they pretend much truth to the king's grace and to the commonwealth, when they intend nothing less; and deceive the poor ignorant people, and bring them to fight against both the king, the church and the commonwealth. They arm them with the sign of the cross and of the wounds, and go clean contrary to him that bare the cross and suffered those wounds. They rise *with* the king, and fight *against* the king in his ministers and officers; they rise *with* the church, and fight *against* the church, which is the congregation of faithful men; they rise *for* the church and fight *against* it, and go about to make the commons each to kill other, and to destroy the commonwealth. Lo, what false pretence can the devil send among us!<sup>2</sup>

It was a very easy case to argue. On 2 November 1536 Norfolk and the northern representatives were received by the king at Windsor: "And although the king's most royal majesty at the beginning showed his courage to be much provoked unto extreme displeasure by occasion of our so high and notable attempts touching somewhat his royal estate and honour, as in prescribing and assuming unto his grace councillors", yet, thinking more of peace for his people than of revenge for himself, he was assuaged by Norfolk and others, and resolved to write with his own hand an answer to the Pilgrims' articles.<sup>3</sup>

<sup>1</sup> Dodds, I, p. 273.

<sup>2</sup> H. Latimer, *Sermons* (Parker Society, 1844). Dodds, I, p. 274, points out that this sermon was preached in 1536 and not, as the Parker editor says, in 1535, but refers in error to the *Remains* instead of the *Sermons*.

<sup>3</sup> *L. and P.* XI, no. 1009, Ellerker and Bowes to Darcy, Nov. 7: they added a rumour, whether believed or invented by the government, that Aske was "moving to a new insurrection" in Cumberland, Westmorland and Lancashire. Norfolk had written to the same effect the day before to Darcy, adding "For old love I must warn you also of the speech of the people here who think you consented to Aske and the commons in the delivery of Pontefract. I have used myself like a true friend, thinking you delivered the castle for lack of victual and ordnance and were forced to go with the commons like many other noblemen. To declare yourself, I advise you to take,

This composition<sup>1</sup> of Henry's was given on 5 November 1536 to Bowes and Ellerker, who at once set out for the north. Henry took the Pilgrims' articles in order:

"First, as touching the maintenance of the Faith; the terms be so general, that hard they be to be answered; but if they mean the Faith of Christ, to which all christen men be most obliged, We declare and protest Ourself to be he, that always do, and have minded to die and live in the purity of the same"; which no one dare dispute, and it is odd ignorant people should "take upon them to instruct Us (which something have been noted to be learned) what the right Faith should be. . . .

"To the second, which toucheth the maintenance of the Church, and liberties of the same; this is so general a proposition, that, without distinctions, no man, with truth can answer it, neither by God's law, nor by the law of the realm. For first, the Church, which they mean, must be known; secondly, whether they be lawful or unlawful liberties, which they require: and, these known, I doubt not but they shall be answered according to God's law, equity, and justice. But yet, for all their generality, this I dare assever, that (meaning what Church they list) We have done nothing in their prejudice, that may not be abided by, both by God's law and man's; and in our Church, whereof We be the Supreme Head here in Earth, We have not done so much prejudice, as many of our predecessors have done upon much less grounds." And anyway it's no business of yours, being commons, and very unkind of you to prefer that "a churl or two should enjoy those profits of their monasteries, in supportation of vicious and abominable life, than I, your Prince, for supportation of mine extreme charges, done for your defence.

"The third toucheth three things; the laws, the commonwealth, the directors of the laws under Us." As to the laws, none of our predecessors did so well, and what is more, with twenty-eight years' practice we've got better and better at it. "Now, touching the commonwealth; what King hath kept you all, his subjects, so long in wealth and peace? so long without taking or doing wrong, one to the other? so indifferently minister justice to all, both high and low? so defended you all from outward enemies? so fortified the frontiers of this realm, to his

alive or dead, but alive if possible, that arrant traitor Aske. . .": XI, no. 995. On Nov. 7 Hussey wrote to Darcy (no. 1007) telling him what a good friend Norfolk had been and advising him "that if he find means to send up Aske, quick or dead, he may be sure of the king's favour".

<sup>1</sup> *S.P.* I, pt. II, p. 506.

no little, and, in a manner inestimable, charges? and all for your wealths and sureties. What King hath given among you more general or freer pardons? . . . As touching the beginning of our reign, when ye say so many noblemen were Counsaillours; who were then Counsaillours, I well remember, and yet of the Temporalty I note none but two worthy calling noble", Surrey and Shrewsbury; "others, as the Lord Marney, and Darcy, but scant well born gentlemen; and yet of no great lands till they were promoted by Us, and so made Knights, and Lords: the rest were lawyers and priests, save two Bishops," Warham and Fox: whereas now we have in our privy council Norfolk, Suffolk, Exeter, Shrewsbury ("when he may come"),<sup>1</sup> Oxford, Sussex, Sandes, and so on. "But yet, though I now do declare the truth, to pull you from your blindness that you were led in, We ensure you, We would ye knew that it appertaineth nothing to any of our subjects, to appoint Us our Counsaill, nor will We take it so at your hands. . . .

"To the fourth," the ill behaviour of counsaillours, subvertors both of God's law and of the realm's, we cannot believe it, but if it be proved, "We shall proceed against them, and all other offenders therein, according to justice, as to our estate and dignity royal doth appertain. . . . And one thing amongst others, maketh me think, that this slander should be untrue; because it proceedeth from that place, which is both so far distant from where they inhabit, and also from those people, which never heard them preach, nor yet knoweth any part of their conversation. . . .

"We let you wit, ye, our subjects of Yorkshire, that were it not, that our Princely heart cannot reckon this your shameful insurrection, and unnatural rebellion, to be done of malice or rancour, but rather by a lightness given in a manner by a naughty nature, to a commonalty, and a wondrous sudden surreption of gentlemen; We must needs have executed another manner of punishment than (ye humbly knowing your fault and submitting yourselves to our mercy) We intend to do", that is demand the delivery of "ten such of the ring-leaders and provokers of you to this rebellion, as we shall assign. . . . Now, note the benignity of your Prince. Now note, how easily ye may have pardon, both gentlemen, and other, if ye list. Now note, how effusion of blood may be eschewed. Now note, what this little while of your rebellion hath hindered your selves and country. Now learn, by a little lack, to eschew a worse. Now learn, by this small warning, to keep you true men. Thus I as your head pray for you my members, that God may

<sup>1</sup> He was too busy in Yorkshire just then.



light you with His Grace to knowledge and declare yourselves our true subjects henceforth, and to give more credence to these our benign persuasions than to the perverse instigations of malicious disposed persons".<sup>1</sup>

It was an impressive piece of eloquence and, apart from the disputable assertion that "in our Church, . . . We have not done so much prejudice, as many of our predecessors have done", a very effective piece of debating. But it was doubtful whether the time had come for debating, especially in so minatory and provocative a manner, and the king, moved by Norfolk's and Suffolk's reports of the military situation, held up his answer after he had written it and even handed it to Bowes and Ellerker.<sup>2</sup> Meanwhile the Pilgrims might get less and less inclined to remobilise, less and less interested in the answer when it did come, and more and more suspicious of each other. Gentlemen were to be on their estates, where they should preach loyalty, and might be worked on with hints of pardon, reward, grants of rebel or monastic lands. There was government propaganda also by sermon and exhortation, there were commoners who looked to plunder, the men of the North Riding and farther north who had dangerous ideas about property, family feuds and local feuds, all factors towards disintegration of the Pilgrimage: a pilgrim must keep moving.<sup>3</sup>

For this policy of inactivity Henry had an easily alleged pretext in breaches of the truce: that truce was probably as well kept as was possible in the circumstances, but there were breaches and misunderstandings on both sides. Aske did his best, but seems to have been largely preoccupied at this time with trying to unite the Percies.<sup>4</sup> Meanwhile, the chance of renewed disturbance grew, the commons were difficult to restrain, the gentlemen became convinced that in force was their only safety. Not till November 11 was the proclamation drafted on November 2<sup>5</sup> allowed to reach the north,<sup>6</sup> and then it was most unsatisfactory. Not till November 17 did Ellerker and Bowes reach Templehurst, and even when they did arrive they had become the king's men

<sup>1</sup> *S.P.* 1, pt. 2, pp. 506-10 (my spelling).

<sup>3</sup> Dodds, 1, pp. 280, 281.

<sup>5</sup> Cf above, p. 339.

<sup>2</sup> Dodds, 1, p. 278.

<sup>4</sup> Dodds, 1, pp. 283-88.

<sup>6</sup> *L. and P.* XI, nos. 1040, 1042.

and brought not the reply the king had written but only a verbal message inviting three hundred Pilgrims to meet Norfolk at Doncaster. The gentlemen were so disgruntled that in spite of Darcy's persuasions they would not answer till November 21, the date fixed for the meeting of their great council at York. Meanwhile plans of campaign were made, including a project of getting into touch with the emperor.<sup>1</sup>

The great council of the Pilgrims had some eight hundred members, not only captains but also representatives chosen from every wapentake or parish. It appointed a sort of executive committee of two hundred, which decided, with much difficulty and argument, that three hundred representatives should meet Norfolk at Doncaster on December 5.<sup>2</sup> Two days before that there should be a preliminary conference at Pontefract, attended by the discreetest men of each wapentake with lists of grievances to be digested into a set of articles by way of answer to Henry's complaint that their earlier demands were obscure. There seems also to have been some real fear that Cromwell might, perhaps, after marriage with Margaret Douglas or even with Princess Mary, be established as heir, and some sort of desire to have Mary's birthright assured and Henry's power of appointing his successor annulled; and the commons were certainly resolved that parliament must be held in some safe place and that pardon must be by act of parliament. A letter was sent to Norfolk requiring that the truce should last for a fortnight after the meeting on December 5, that the meeting should be on neutral ground, that there should be safeconducts for all delegates and hostages for Aske.<sup>3</sup> This the king, to whom it had been forwarded, answered on 27 November 1536:<sup>4</sup> he was astonished at the ingratitude shown by men of honour and worship, and that "as the commons be now down" the nobles and gentlemen should have signed such a letter. Obedience to princes was a divine ordinance, and "their oath of allegiance passeth all other oaths, without the keeping of which all other oaths be but nought and vain". All this talk about hostages, neutral territory, truces, as if the Pilgrimage were a war between great powers, was impertinence. And what a shame for men "accounted noble to suffer

<sup>1</sup> Dodds, 1, pp. 309, 310.

<sup>3</sup> Dodds, 1, pp. 317-19.

<sup>2</sup> Dodds, 1, pp. 313-15.

<sup>4</sup> *L. and P.* XI, no. 1175.

such a villain as Aske, having neither wit nor experience, to subscribe the letters sent to the duke of Norfolk before you. . . . It is only his filed tongue and false surmises that have brought him in this unfitting estimation among you. Finally, you are to tell them we are as much inclined to mercy as ever prince was if we find in them a disposition to seek it", i.e. complete submission. This answer was admirably designed, as was the addressing of it to Ellerker and Bowes, to foment the nervousness of the gentry and the suspicions of the commons.

Henry did not neglect other resources. Shrewsbury was authorised to induce secretly Darcy and Aske to come over on promise of pardon.<sup>1</sup> Suffolk and Norfolk were urged to military preparation, and permitted to offer, as a last resort, a free pardon and a parliament.<sup>2</sup> The government's orthodoxy was advertised by persecutions of heretics, the king's reply to the Lincolnshire rebels was printed, and tracts inculcating peace and obedience. The bishops were commanded on<sup>3</sup> pain of deprivation to expound the Articles and "the obedience due by God's law to the sovereign, whose commandments they have no right to resist even though they were unjust, and to commend all the honest ceremonies of the church in such wise that they be not contemned, and yet shew how they were instituted, and that people be not corrupted by putting too much trust in them". Sedition in the southern counties was vigilantly watched, and Francis and Charles were kept occupied with matrimonial and other negotiations.<sup>4</sup>

The great council at Pontefract was above all an opportunity to state the objects of the Pilgrimage, to make of it something single and strong by establishing it on the rock of principle well understood and fully accepted. The Pilgrim leaders, Aske at least, had this quite clearly in mind, and quite clearly understood that the primary question was the limit of political obedience. That is a question which must always interest the moralist, and the clergy were the official moralists: moreover, the Church taught that secular obedience should cease where the

<sup>1</sup> *L. and P.* xi, no. 1225.

<sup>2</sup> Nos. 1224, 1197, 1239, 1236.

<sup>3</sup> No. 1110, Nov. 19. The bishop was to pass on these instructions to his underlings: married priests to be severely dealt with.

<sup>4</sup> Dodds, I, pp. 325, 326: was Mary to marry Angoulême? or Lewis of Portugal?

continuance of it would necessitate conduct of the nature of mortal sin: and in this particular case it could hardly be doubted that the pope thought obedience to Henry came within that category, and it was all the time alleged that the essential cause of dispute was precisely the defence of spiritual jurisdiction from lay aggression. Accordingly, there had been summoned to Pontefract not only a sort of parliament but also a sort of convocation,<sup>1</sup> the leading clergy to attend in person and the others to send their opinions in writing. The topics to be discussed had been suggested by Aske;<sup>2</sup> similarly he had prepared from the lists of grievances draft articles to be agreed on by the "parliament".

The first article<sup>3</sup> asked for the destruction of the heresies of Wycliffe, Luther, Huss, and a dozen others; about that there was no difficulty. The next dealt with the royal supremacy, and that was not so easy: some of the rebels had been quite prepared to accept it,<sup>4</sup> some thought that the pope might have a kind of formal precedence but "no further meddling": on the other hand, the "parliament" was ready to ask simply for the repeal of the Statute of Supremacy, but Aske persuaded them to put in the clause "touching cura animarum". "The supremacy of the church touching *cura animarum* to be reserved to the See of Rome as before. The consecrations of the bishops to be from him, without any firstfruits or pension to be paid to him, or else a reasonable pension for the outward defence of the Faith." The suppressed abbeys to be restored, and tenths and firstfruits not demanded from them: heretics to be punished, as well as Leigh and Leighton: "the privileges and rights of the church to be confirmed by act of parliament. Priests not to suffer by sword unless degraded. A man to be saved by his book". Sanctuary to be restored, and the old liberties.

This was getting down to principles, setting up a complete view of government wholly incompatible with that which Henry and Cromwell were realising. The political demands cut equally deep. Cromwell, Audley, and Rich were to have condign punishment. Mary was to

<sup>1</sup> Cf. Dodds, I, p. 341 and *L. and P.* XI, p. xli.

<sup>2</sup> Perhaps in XI, no. 1182: at any rate, a list much like that.

<sup>3</sup> For this paragraph cf. Dodds, I, pp. 346 ff.: and *L. and P.* XI, no. 1246.

<sup>4</sup> Cf. the Lincolnshiremen, p. 305 above.

"be made legitimate... by parliament": the motive alleged, to avoid a Scottish succession, was not enough to convince Henry, especially as the Pilgrims did not hide their conviction that the annulment of the Aragon marriage had been improper and meaningless.

"Reformation for the election of knights of the shire and burgesses, and for the use among the lords in the parliament house after their ancient custom": greater freedom of speech was desired:<sup>1</sup> royal nominations of burgesses were resented, as were by-elections, and candidatures by non-residents: "The old custom was that none of the king's servants should be of the commons house; yet most of that house were the king's servants".<sup>2</sup> Also, a dozen or more Yorkshire boroughs had in the last century and a half ceased to be parliamentary, by their own fault no doubt in wishing to avoid expense: now it was suggested that Beverley, Richmond, Ripon, Pontefract, Wakefield, Skipton, and Kendal should be re-enfranchised.<sup>3</sup> As to "the use among the lords", the chief grievances seem to have been these—that matters touching the faith were treated in parliament instead of convocation, that the custom of beginning each session by reading the first chapter of Magna Charta "touching the rights and liberties of the church" had been discontinued, and that the lords were hindered in their accustomed procedure about bills which might touch the royal prerogative, or private bills which might touch the public interest; in this connection the old procedure had been to obtain copies of such bills in good time and have them examined by counsel, but now "they could not have no such copy upon their suit, or at least not so readily as they were wont", partly by default of the chancery officials and partly by "the hasty reading of the bills and request of the speed of the same".<sup>4</sup>

<sup>1</sup> *L. and P.* xi, no. 1244, p. 505. And Aske wished to reform methods of debate in the house of commons, "that if the same cause were to be heard by parliament, then such as were learned and wise men of the parliament house would study for reasons and matters, and declare their minds therein at large, and so he meant it surely and upon his faith and none otherwise, and that they would make their reasons in the form of an oration, which was the manner he meant, were meet to be so opened by parliament, viz., to maintain the matter with chronicles and arguments as the manner is", xii (1), no. 946, p. 430.

<sup>2</sup> xi, no. 1182, p. 478.

<sup>3</sup> Dodds, i, p. 359; *E.H.R.* v, p. 343.

<sup>4</sup> *E.H.R.* v, p. 568.

"To have a parliament at Nottingham or York, and that shortly. The statute of the declaration of the crown by will to be repealed. Pardon by act of parliament for all recognisances statutes and penalties new forfeited during the time of this commotion." The first of these demands is simple enough—the Pilgrims wanted a parliament held somewhere where it was not likely to be overawed, and the first thing they would want it to do was to ensure their own safety. The middle demand deserves further analysis: no doubt its practical weight came from a wish to support the Aragon marriage and Mary's heirship, together with a feeling that it was really intolerable to have the king authorised to appoint his estate by will just when the Statute of Uses was, in the king's interests, preventing every one else from doing so; and from a feeling that so far from removing the risk of civil war *appointment would bring it nearer, by the possibility that the appointed successor might not seem the natural heir*. This motive is an example of the element of paradox in the controversy between Henry and his discontented subjects: not only were they the conservatives, objecting to his innovations as such, but also he was (in a real and decisive sense) the parliamentarian although the Pilgrims were so keen to get everything, especially their pardons and their lands, by act of parliament. Between the rightful heir, said Aske, "and him to whom the same were given, who should be judges?"<sup>1</sup> In Henry's notion, and Cromwell's, this was a meaningless question; what was clearly done by authority of statute was done and could not be legally undone, no judge could have anything to do with it.

That the lands in Westmorland, Cumberland, Kendal, Dent, Sedbergh, Furness, and the abbey lands in Mashamshire, Kirkbyshire, Netherdale, may be by tenant right and the lord to have at every change two years rent for a gressum,<sup>2</sup> according to the grant now made by the lords to the commons there. This to be done by act of parliament. The statutes of hand-guns and crossbows to be repealed, except in the

<sup>1</sup> *E.H.R.* v, p. 564: note also the argument against the eligibility of aliens. And cf. above, p. 269.

<sup>2</sup> The Westmorland men had wanted this to be only one year's rent (as well as tithes and other dues abolished and parsons taxed): *L. and P.* xi, no. 1080: they accepted no gentlemen of their counsel because they were afraid of them as yet, they told Darcy in this letter written to ask his advice.

king's forests or parks. . . . The statutes for enclosures and intakes to be put in execution. . . . To be discharged of the quinzine<sup>1</sup> and taxes now granted by Act of Parliament.

It was the poor men who paid gresssums and disliked enclosure and who were forbidden guns: as to the first two, the crown could sympathise with them much more cordially than their present leaders, and as to hand-guns Henry, at this very time busy with the disarmament of Lincolnshire, was well aware that ultimate political power in England had always lain with those who had force and the will to use it, and he knew also that he would not be alone in preferring that the armament of Yorkshire peasants should not be strengthened.<sup>2</sup>

To have the statute *that no man shall not will his lands*<sup>3</sup> repealed. The statutes of treasons for words and such like made since 21 H. VIII to be repealed. That the common laws may have place as was used in the beginning of the reign, and that no injunctions be granted unless the matter has been determined in chancery. That men north of Trent summoned on subpoena appear at York, or by attorney, unless it be directed on pain of allegiance, or for like matters concerning the king. A remedy against escheators for finding false offices and extorting fees.

The last was a commonplace, and the last but one; the first was the special grievance of the gentry: the rest part of the general programme of the Pilgrims, Aske above all, that the old known laws should be law, and not something new-made, even if it were made by parliament.<sup>4</sup>

Such were the articles which the "parliament" or great council of the Pilgrims agreed upon in one day (2 Dec. 1536), together with instructions<sup>5</sup>—for their negotiators—"that we be not mentioned in the pardon nor in any records as rebels and traitors. That Richard Cromwell nor none of his kind nor sort be at our meeting at Doncaster. . . . To know what authority the lords have to promise. To demand what pledge

<sup>1</sup> Fifteenth.

<sup>2</sup> Dodds, I, p. 364, points out (with reference to F. W. Russell, *Ket's Rebellion*, pp. 91, 121, 141) that the Norfolk rebellion of 1549 was suppressed with the help of German and Italian mercenaries: and cf. Henry VII's use of Martin Swart. Cf. above, pp. 31, 41; below, pp. 367, 400, 421.

<sup>3</sup> Cf. above on the Statute of Uses, esp. pp. 282-5, and below, p. 440.

<sup>4</sup> Cf. Dodds, I, p. 366: and *L. and P.* XI, no. 1182 (2), probably Aske.

<sup>5</sup> XI, no. 1246 (1).

they would deliver for the captain. . .". The last business of the day was Lord Latimer's suggestion that the clergy should be asked "whether subjects might lawfully move war in any case against their prince", and Aske's promise that it should be laid before the clergy: it was hoped that the archbishop of York would answer the question in his sermon next day.<sup>1</sup>

The archbishop had not long begun his sermon when into the church came Lancaster herald, bringing the safe-conducts for the negotiators. Lee had first recommended the Ten Articles, and then condemned the taking of church lands for profane uses, and condemned equally fighting by priests, for whatever cause. It was at this point that the herald arrived, and either intimidated or encouraged Lee's conscience to the point of speaking out—"the sword was given unto none but to a prince, and that no man might draw out his sword but a prince; at the which saying the commons were sore aggrieved".<sup>2</sup> It was a hard saying indeed, to a band who, if they called themselves Pilgrims and were anxious not to be called rebels, meant nevertheless at need to get the things that were amiss "reformed by sword and battle".<sup>3</sup>

The sermon, indeed, in a sense marks the end of the Pilgrimage. It had never been quite a party, and now mistrust between gentry and commons and clergy was exacerbated: Aske had tried to make of it a doctrine in movement, but now he was baffled by the principal authorised teacher of the north.

On 4 December 1536 the "convocation" met to draw up their articles:<sup>4</sup> they agreed easily that heresy should be dealt with as in the time of Henry IV, and the old holidays restored: with a good deal more difficulty they agreed that the king might be called *Caput Ecclesiae* but might exercise no jurisdiction such as visitation or the like: Mary's legitimacy they would "refer to the church to whom it was appealed". About criminous clerks, sanctuary, first-fruits and tenths, and abbey

<sup>1</sup> Dodds, I, pp. 377, 378.

<sup>2</sup> *L. and P.* XII (1), nos. 786 (ii), 1021 (1), 901 (p. 412), 1022, 1011: all in Dodds, I, pp. 379, 380: the quotation is from the last.

<sup>3</sup> XII (1), Aske's examination, no. 901 (21), p. 404.

<sup>4</sup> For all this paragraph cf. Dodds, I, pp. 383 ff.: and *L. and P.* XI, no. 1245; XII (1), no. 786.



lands, they agreed with the resolutions of the laymen: the pope of Rome they took to be Head of the Church and Vicar of Christ, and his dispensations valid: they approved the laymen's articles concerning the Church, and further recommended that "the laws of the church may be openly read in the universities as hath been used heretofore". On December 5, after some sort of acceptance by Lee, who boggled much at the papal supremacy, the resolutions were handed to Aske.

On December 6 ten knights, ten esquires, and ten commons met Norfolk and his council at Doncaster: they had already gained one diplomatic victory, for Richard Cromwell was not there.<sup>1</sup> Norfolk had instructions to grant a general pardon if necessary, but for the sake of the king's honour he was to try by dexterity to "reserve a very few", and in any case he was to protract the negotiations as long as possible, meanwhile making military preparations.<sup>2</sup> The discussion began well, Aske in the name of his colleagues making three obeisances and beseeching the king's pardon for any offences against his highness or laws, and all parties welcoming the king's zeal against heresy: then it was agreed that all the Pilgrims' articles should be remitted to parliament, most of them indeed being complaints of acts of parliament and most properly satisfied by repeal: the one thing which was not to wait for parliament was the monastic question, but abbeys were to be allowed to stand in spite of statute till they could be re-established by statute: when and where parliament was to meet and how it was to be composed were clearly matters which could not be thus merely remitted, but the Pilgrims seem to have been satisfied with vague assurances from Norfolk. Finally, Norfolk showed them a full and free pardon without exceptions.<sup>3</sup>

It was difficult to convince the commons that these terms were satisfactory, "except they saw the king's most merciful pardon under seal, and that the abbots new put in of houses suppressed should not avoid their possession till the parliament time, and that also the parliament should be at York":<sup>4</sup> but with persuasions from Aske and with a

<sup>1</sup> Dodds, II, p. 8: he joined Suffolk, *L. and P.* XI, no. 1283.

<sup>2</sup> XI, nos. 1227, 1237: cf. no. 1236, Henry VIII to Suffolk.

<sup>3</sup> Dodds, II, pp. 13-15.

<sup>4</sup> *E.H.R.* v, p. 341, Aske's Narrative.

reading of the pardon by Lancaster herald they were more or less contented, and on December 8 dispersed to their homes. Then Norfolk was assured that the king's rents should be paid, and some minor points were adjusted, and

Aske, making his obeisance and kneeling on his knees most humbly required the said duke of Norfolk . . . to desire the lords of the north parts to relinquish and to refuse to nominate the said Aske from thenceforth by the name of *Captain* at any time after; and, that promised and done, the said Aske in the presence of all the said lords pulled off his badge and crosses with the five wounds, and in semblable manner did all the lords there and all other there present, saying these words: We will all wear no badge nor sign but the badge of our sovereign lord.<sup>1</sup>

That was the end of the Pilgrimage: there was nothing written about the settlement, except the pardon, and that, as will be seen, was not to prove very effective. The report in London at the time was that "the Northern men had obeyed the king's proclamation and submitted to mercy":<sup>2</sup> it was the view that suited the government, and reasons were not long lacking for restricting mercy.

<sup>1</sup> *E.H.R.* v, p. 342; Dodds, II, pp. 16, 17.

<sup>2</sup> *L. and P.* XI, no. 1282.

## CHAPTER XVII

### THE DECISIVE CAMPAIGN, THE PILGRIMAGE OF GRACE, RESULTS

Henry was at first much annoyed at the terms of Norfolk's arrangement: he did not ratify it, though neither did he repudiate it:<sup>1</sup> he allowed some uncertainty to appear whether he really meant to go on with the suppression of the monasteries, and he seems to have thought of holding a parliament in the north, though he also thought of establishing garrisons there:<sup>2</sup> he certainly still hankered after blood, feeling that rebellion unpunished was an insult and a threat to government: meanwhile the general pardon was proclaimed about the north by the heralds. It began with an accusation of "manifest and open rebellion . . . to the high displeasure of God who straitly commandeth you to obey your sovereign lord and king in all things and not with violence to resist his will or commandment for any cause whatsoever"; but the king had considered that these "offences proceeded of ignorance and by occasion of sundry false tales never minded or intended by his Highness or any of his council", and so inclined to mercy, "having the chief charge of you under God both of your souls and bodies"; accordingly he granted his general and free pardon for all offences since the beginning of the rebellion, and individuals might have pardons under the great seal on suing to chancery, after "humble submission to his Highness in the presence of his" lieutenants-general or their deputies.<sup>3</sup>

This proclamation, not a pardon but a promise of pardon, with its insistence on rebellion and its unqualified claim to supremacy,<sup>4</sup> could not be very well received and must sharpen the grudges still pricking the north, the more since the parliament to which the gentlemen looked as a panacea was of very little interest to the commons. Distrust between gentry and commons was what the government most desired,

<sup>1</sup> Dodds, II, pp. 22, 23.

<sup>2</sup> Dodds, II, pp. 26, 27: cf. I, p. 375.

<sup>3</sup> Dodds, II, p. 30.

<sup>4</sup> Cf. the use Bigod made of this proclamation's defects, Dodds, II, p. 68.

and was much increased by the delay of Norfolk's return, by the departure of gentlemen to sue their pardons, and above all by Aske's journey to London at Henry's invitation. It was now that Aske wrote for Henry his *Narrative*, with its conclusion that if Cromwell "continue in favour and presence with your grace it will danger the occasion of new commotions which will be very dangerous to your grace's person".<sup>1</sup> Aske believed (8 Jan. 1537) that the king had forgiven him and all the north and meant to hold parliament at York with "free election of knights and burgesses and like liberty to the spirituality to declare their learning":<sup>2</sup> but already when he wrote this letter he was back in Yorkshire, whither Henry had sent him to pacify renewed disturbance.

The troublesome factors now really were at Henry's mercy: there was enough breach of order for the government to be able to declare itself freed from its promises;<sup>3</sup> the gentlemen were ready to persuade themselves that they would get all that was really necessary from parliament, and meanwhile thought only of securing their property;<sup>4</sup> the commons expected nothing from parliament,<sup>5</sup> and were thoroughly dissatisfied, but leaderless and therefore not dangerous; the clergy were disunited and irresolute; Henry could take up his plans "for the maintenance of perfect quiet in the future",<sup>6</sup> watching the south, collecting of treasure, strengthening of castles, and especially punishment of "such as have offended since the publication of the pardon".<sup>7</sup> The duke of Norfolk was to reside in the north as lieutenant, with an honourable council, "that things may be handled substantially, so that people may see the good of law, and the evil of violence"; he was to seek out the instigators of the Pilgrimage and devisers of its articles, to swear-in the submissive, and if any one refused the oath "the duke, if he thinks himself able, shall use him as the king's rebel": he was to enforce the Statute of Suppression. "One ground of the late rebellion was that certain lords and gentlemen have enclosed commons and taken intolerably excessive fines. The duke is to receive complaints touching

<sup>1</sup> *E.H.R.* v, p. 343.

<sup>3</sup> Cf. Dodds, II, p. 52.

<sup>5</sup> Cf. e.g. *L. and P.* XII (1), no. 201, p. 88.  
XI, no. 1410 (1).

<sup>2</sup> *L. and P.* XII (1), no. 43.

<sup>4</sup> Cf. Dodds, II, p. 105.

<sup>7</sup> XII (1), no. 97.

this, enquire who have been most extreme, and moderate between them, so that gentlemen and yeomen may live together as they be joined in one body politic under the king." For justice in common cases the duke and his council were to begin as soon as possible sitting twice a week. "Item. At all assemblies the duke of Norfolk shall declare to the justices of the peace how negligent they have been: for if they had been vigilant the late trouble [had never] ensued." Then follow various drafts of the oath to be administered, all revoking the Pilgrims' oath and promising allegiance to the king and obedience to his statutes.<sup>1</sup>

In the middle of January Sir Francis Bigod and John Hallam tried to revive the Pilgrimage<sup>2</sup> and to re-establish a defensive position by seizing Hull: Aske and Constable tried to persuade the commons not to join:<sup>3</sup> various monasteries were implicated, justly or unjustly:<sup>4</sup> the gentlemen who had been loyal during the insurrection busied themselves with collecting evidence against the leading Pilgrims, and especially "great exclamations against Aske":<sup>5</sup> there were fears of renewed troubles in Northumberland and Cumberland: bills were posted on Yorkshire church doors urging the commons to stick together as the gentlemen had deceived them.<sup>6</sup>

On 1 February 1537 Norfolk at last got back to Doncaster. A few days later there began in Richmondshire new disturbances, in which the monks of Jervaulx were implicated but no gentlemen, on February 10 Bigod was captured<sup>7</sup> and in the middle of February there was fighting in Cumberland and Westmorland<sup>8</sup> led by "Captain Poverty". On February 12 Norfolk sent from York a list of the first prisoners,

<sup>1</sup> In one form (according to Dodds, II, p. 101, probably that finally used, "Supreme Head" being inserted in another draft) allegiance was to be sworn to "Henry VIII king of England and of France etc.": this is an interesting foreshadowing of Elizabeth's tact about the royal supremacy: cf. F. W. Maitland, *Collected Papers*, III, pp. 156 ff., where Elizabeth's "etc." is described as a stroke of genius.

<sup>2</sup> But Bigod promised that "the fat priests' benefice of the south that were not resident upon the same and money of the suppressed abbeys should find the poor soldiers that were not able to bear their own charges": Dodds, II, p. 68, referring to *L. and P.* XII (1), no. 369. Bigod had at one time inclined to the new learning, XII (1), pp. vi-viii.

<sup>3</sup> Dodds, II, p. 73.

<sup>4</sup> Dodds, II, pp. 82, 83.

<sup>5</sup> Dodds, II, p. 92.

<sup>6</sup> Dodds, II, p. 93.

<sup>7</sup> *L. and P.* XII (1), no. 401: cf. no. 402, Sir Ralph Evers trying to get his lands.

<sup>8</sup> Cf. Dodds, pp. 110-16.

of whom three were religious, condemned before him, "and when execution shall be done; also of others whom he keeps in prison, who could not be indicted for lack of evidence. Expects to have more pregnant matter against them by examining Bigod and his followers".<sup>1</sup> It was the beginning of a great punishment, the manner of which is worth enquiry.

At Carlisle the duke thought better to dispense with indictment: if he were allowed his own way<sup>2</sup> for a month, he wrote, he would give his highness satisfaction. There were so many places to punish that it would take time. He had so many prisoners it was difficult to know how to keep them. He must be present himself at every punishment, and proceed by martial law, for if he were to proceed by indictments many a great offender would escape as having acted against his will. There was not a lord or gentleman of Cumberland and Westmorland but his servants and tenants had been at this new rebellion.<sup>3</sup>

Next day a number of wretched people came in to submit to the king's mercy: Norfolk told<sup>4</sup> Cromwell (after acknowledging receipt of instructions for suppressing religious houses) that he had imprisoned seventy of the worst of them, and was arranging for more arrests:

The poor caitiffs who have returned home have departed without any promise of pardon but upon their good abearing. God knows they may well be called poor caitiffs; for at their fleeing they lost horse, harness, and all they had upon them, and what with the spoiling of them now and the gressing of them so marvellously sore in time past and with increasing of lords' rents by enclosings, and for lack of the persons of such as shall suffer, this border is sore weakened, and especially Westmoreland; the more pity they should so deserve, and also that they have been so sore handled in times past, which, as I and all others here think, was the only cause of this rebellion.<sup>5</sup>

On February 24

seventy-four were chosen<sup>6</sup> as principal offenders and judged to suffer death by martial law, your banner being displayed. . . . They shall be

<sup>1</sup> *L. and P.* XII (1), no. 416.

<sup>2</sup> Cf. p. 357, n. 4 below.

<sup>3</sup> XII (1), no. 468, Feb. 19.

<sup>4</sup> No. 478, Feb. 21.

<sup>5</sup> Cf. above, p. 336.

<sup>6</sup> "By the advice of the council and gentlemen of these parts": no. 498, Feb. 24. Sir Ralph Ellerker was appointed marshall for the occasion, and Robert Bowes prosecuting attorney.

put to death in every town where they dwelt. . . . By no means that he could devise could he try out more that were stirrers of this rebellion except such as be fled. . . .

Had he proceeded by jury he thought not the fifth man of them would have suffered:

*for they say I came out for fear of my life, or, for fear of burning of my houses and destroying of my wife and children, etc.; and a small excuse will be well believed here, where much affection and pity of neighbours doth reign. And, sir, though the number be nothing so great as their deserts did require to have suffered, yet I think the like number hath not been heard of put to death at one time.*

Yet he still hoped for more, and when he had finished the causes of Northumberland would do the same in Durham, "and thence into Yorkshire to begin again there": at the same time he was seeing to the suppression of the monasteries, to which the only delay was the hesitation of the king's farmers to come forward.

Soon after sending off this letter Norfolk must have received one from the king:<sup>1</sup> "We approve of your proceedings in the displaying of our banner, which being now spread, till it is closed again, the course of our laws must give place to martial law", which Norfolk was to execute with the utmost severity: he was to send to London Bigod and half a dozen others: to take great care of the property of the attainted, for we hear there were among them divers freeholders and rich men. Finally, as these troubles have been promoted by the monks and canons of those parts, at your repair to Sawley Hexham Newminster Lanercost St Agatha and such other places as have made resistance since the appointment at Doncaster, you shall without pity of circumstance, now that our banner is displayed, cause the monks to be tied up without further delay or ceremony.<sup>2</sup>

Tynedale and Redesdale were still disorderly, to the point of murder: otherwise all was submission, and the only difficulties came from the urgency and multiplicity of business, as for instance the omission to

<sup>1</sup> *L. and P. XII* (1), no. 479, 22 Feb. 1537.

<sup>2</sup> It seems probable that by the time Norfolk received this letter he had closed the king's banner, and that the last sentence was not obeyed. Cf. Dodds, II, pp. 121, 122.

give Norfolk authority for collecting the subsidy and for granting capacities:<sup>1</sup> by 7 March 1537 Norfolk was recommending a speedy return to the normal—"I should have proclamations of pardon like those sent to Lincolnshire, with a schedule attached to be filled in by me and the council with the names of such as shall be excepted, for it is not good to keep so many men long in desperation": and he hoped to be at easter-time back in Newcastle to hear many poor men's causes.<sup>2</sup> A day later he assured the king that none should escape against whom good evidence could be got and asked how many his majesty would like to be executed—"Folks think the last justice at Carlisle great, and if more than twenty suffer at Durham and York it will be talked about".<sup>3</sup>

By the time the duke got to Durham, then, it was not martial law but common law that he was administering: the fact led to another instance of the government's advantages: after the prisoners had been indicted Norfolk suddenly remembered that Durham was not included in his commission: he thought for a moment of switching back to martial law, but finally he decided to go on with the arraignments, "keeping secret our lack of authority", and to respite the convicted (thirteen in number) to give London time to approve.<sup>4</sup> The approval came all right,<sup>5</sup> from Henry himself, together with instructions to proceed against various persons, including the abbot of Jervaulx and the quondam abbot of Fountains, and the abbot of Sawley "if you can find matter worthy of it, as we doubt not you shall". In general, Norfolk was given discretion, and Henry was ready to begin showing mercy: but "as to the friar that prayed for the pope; it is thought here to be treason", and "we shall within a few days send for lord Darcy, as you advise".

It did not need Norfolk's recommendations to persuade Henry that Darcy, Aske, Constable, and Thomas Percy would all be much better out of the way.<sup>6</sup> They and other gentry implicated in the Pilgrimage were invited or commanded to London. The difficulty was to convict

<sup>1</sup> Licenses to religious persons to seek secular livings.

<sup>2</sup> *L. and P.* xii (1), No. 594.

<sup>3</sup> No. 609, March 8.

<sup>4</sup> Nos. 615 and 616, March 9.

<sup>5</sup> No. 666, March 17: cf. p. 355 above.

<sup>6</sup> Cf. xii (1), p. xxix: Dodds, II, pp. 129 ff.



them of any punishable conduct since the "appointment" at Doncaster, and it was this difficulty which gave importance to the acquittal of a certain William Levening, accused of complicity with Bigod, for Levening had appealed to Aske, Darcy, and Constable to help him:<sup>1</sup> if therefore he had been condemned for high treason they might have been charged as accomplices; but seven of the jury "knew Levening well as their neighbour and thought Ellerker gave evidence out of malice because the king had given him part of Levening's lands": in spite of assurances from other jurors<sup>2</sup> that the king would not do such a thing and of harsh handling by Norfolk, "who took away from them all that might keep them warm",<sup>3</sup> Levening's friends stayed firm, and he was acquitted. The duke himself examined Levening on oath, without getting any more out of him.<sup>4</sup>

Henry and Cromwell were unwilling to leave it at that: they required Norfolk to report the names of the jurors, "such as were on the inquests for the indictments and arraignments",<sup>5</sup> but he did not send them very quickly or very completely, and feared that if the recalcitrant were summoned to London it would be rumoured "that men should be compelled to pass otherwise than their conscience should lead them". He added that some of the acquittals had been reasonable, especially in the case of Lutton, who indeed would have had to be reprieved if he had been convicted. Henry and his council did not think much of the argument from conscience, considering Levening's treason manifest:<sup>6</sup> at the same time Norfolk was instructed to impound all the property of Darcy, Constable, and Aske, "now committed to ward", so that the king might enjoy it "if they be not purged of the treason whereof they be now accused".<sup>7</sup>

At Durham on 11 and 12 April 1537 sixteen prisoners were tried "and

<sup>1</sup> "This they never disclosed. (Shows their traitorous heart)", *L. and P.* XII (1), no. 847 (12). But apparently Aske had disclosed it, no. 698, p. 313. No. 730, March 25, Levening having been acquitted the day before: and for all this paragraph cf. Dodds, II, pp. 131 ff.

<sup>2</sup> The two leaders for conviction had been put on the jury by Norfolk, although they had not been named by the sheriff: XII (1), no. 942.

<sup>3</sup> No. 731.

<sup>4</sup> No. 730.

<sup>5</sup> No. 777, March 31: and cf. Dodds, II, p. 132, and XII (1), no. 916.

<sup>6</sup> No. 864, April 8.

<sup>7</sup> No. 863, April 8.

not one acquit", wrote Norfolk, with the pride of good workmanship: at the same time he reiterated his request that the pardon should be sent down, and his recommendation of a royal visit to York, which would be perfectly safe.<sup>1</sup>

The duke found an ingenious method to make the north even more frightened, and therefore more safe: when the indictments were sent down from the council charging with treason Darcy, Aske, Constable, Thomas Percy, four heads of religious houses, and eight others, Norfolk found that they were in duplicate, and supposed the intention was to have two inquests "that one may not know what the other does": accordingly he would

not spare to put the best friends these men have upon one of the inquests to prove their affections, whether they will rather serve his majesty truly and frankly in this matter or else to favour their friends. And if they will not find, then they may have thanks according to their cankered hearts. And as for i'other inquest, I will appoint such that I shall no more doubt than of myself.<sup>2</sup>

Everything went according to plan: every Yorkshire gentleman who could ride attended the assize: of the two juries (numbering twenty-one and twenty) one was composed almost entirely of close relatives of the accused, the other of persons who could be trusted to return the proper verdict, including Nicholas Rudston, who having been deeply implicated in the Pilgrimage had turned king's evidence, and was the principal witness against Constable. After Norfolk had declared his "mind to them, and made them go to several places, They shortly returned and found the two bills of indictment . . . *billa vera*, without putting out or adding a word". One of the same jurors was employed also against two Carthusians<sup>3</sup> who had denied the royal supremacy, and who were duly condemned to death.

If I had known the gentlemen of these parts as well when Levening and others were acquitted as I do now and had named those inquests as I did this, Levening had not been now alive. . . . If it be your pleasure to

<sup>1</sup> No. 918: cf. Dodds, II, p. 134.

<sup>2</sup> No. 1156, May 8: and for all this paragraph cf. Dodds, II, pp. 135 ff.

<sup>3</sup> Who had been sent to Hull from the London Charterhouse: Dodds, II, p. 137.

have the houses of Bridlington<sup>1</sup> and Jervaulx suppressed, I will ride there, and employ men who do not want the farms and therefore will see to your profit. . . . Jervaulx is covered with lead and as for Bridlington there is none like it. . . . worth £3000 or £4000, and standing near the sea it can be easily carried away.<sup>2</sup>

The same sort of work was being done in Lancashire: there the earls of Derby and Sussex were lieutenants, with a specially appointed council: the most important of the victims was the abbot of Sawley, on whose attainder his house was forfeited to the crown: the abbot of Furness was frightened into making a voluntary surrender and some evidence was collected against the Pilgrim leaders then in London.<sup>3</sup>

In Lincolnshire the king's lieutenants were the duke of Suffolk and the earl of Shrewsbury: they would have liked to treat the whole affair as an ordinary riot—hang a few churls and be done with it: but Henry was determined to frighten the county and especially the gentry: the number of victims he had indicated in October 1536 was a hundred: probably a few were executed at that time. In the middle of November pardon was proclaimed for all except the prisoners, of whom there were about a hundred and forty. Early in March 1537 began the assize. George Hudswell and the abbot of Barlings<sup>4</sup> had 'already been sent up to London. All the Lincoln prisoners, including an abbot, six parsons and thirteen monks, were condemned. Moigne was the only gentleman to be executed, and sixty-four altogether of the convicted were let off with loss of goods. The other business at Lincoln had been to find a true bill against the abbot of Barlings, Hudswell, and the other ten prisoners in the Tower, and these were arraigned at the Guildhall in London on 26 March 1537.<sup>5</sup>

<sup>1</sup> In June it was found that most of the movables of Bridlington had been stolen by the poor folk of the neighbourhood: Dodds, II, p. 139, referring to *L. and P.* XII (2), no. 92.

<sup>2</sup> No. 1172: cf. Dodds, II, pp. 136, 137.

<sup>3</sup> Dodds, II, pp. 141–8.

<sup>4</sup> He had, about the beginning of September, persuaded the monks to provide against the risk of dissolution by selling their plate and vestments. He had aided the rebels but protested that it had been only through fear: Dodds, II, p. 155.

<sup>5</sup> Dodds, II, pp. 148–52.

They were all found guilty and executed, for that they did on Monday 2 Oct. . . . at Louth riotously assemble . . . , compassing and imagining the death of the king; and for that intent held a discourse amongst themselves that they with a great multitude and power would govern the king against his will and deprive him of his royal liberty and power, and subvert and annul divers statutes. . . ; and for such purpose did levy war against the king. . . .<sup>1</sup>

But the most important prisoners were in London: there was some thought of adding more to them: poor feeble Northumberland was threatened and one result (perhaps also it had been the object) was that he withdrew all the conditions on which Henry was to inherit from him: a little later, on 29 June 1537, fortunately for himself and all parties, he died. Sir Ralph Evers, Lord Conyers, Lord Latimer, Lord Lumley also were all put in some fear: two peers actually suffered, Hussey and Darcy.

It is notable that Darcy, like all the prisoners in the Tower, was himself examined more than once. Such interrogation of the prisoner before trial was no part of the common law: on the other hand, it was difficult to deny that the crown might put to a subject any question to which in its view the public interest required an answer, and it would be dangerous to refuse answers to questions so put. If the king chose to stiffen his questioning with torture, he had servants who would obey him and there were no judges who might condemn them. The characteristic work of Tudor government was the punishment, with maximum legality, of crime essentially political, infringing or circumscribing the royal liberty and power. Against that sort of crime it is often particularly difficult to collect evidence or to animate neighbours. These are some of the reasons<sup>2</sup> why under Henry VIII "in criminal causes that were of any political importance an examination by two or three doctors of the civil law threatened to become a normal part of our procedure".<sup>3</sup> The leading Pilgrims were all interrogated in this way,

<sup>1</sup> Dodds, II, pp. 183-6.

<sup>2</sup> Others were Henry's character, Cromwell's ideas, the Renaissance, conciliar jurisdiction, the stage of evolution at which the jury had then arrived.

<sup>3</sup> F. W. Maitland, *English Law and the Renaissance*, p. 23: the reference he gives, *L. and P.* XII (1), no. 491, p. 231, does not seem very convincing, but in general Maitland is not likely to be wrong, and in particular there is much to be said for his

and their answers supplied the principal arguments against themselves and each other.<sup>1</sup>

Darcy had certainly at one time and another<sup>2</sup> done enough to be condemned for treason with perfect legality: but the grounds on which he was in fact condemned were quite indefensible, as for instance complicity with Levening (who had been acquitted) and failure to pass on one Parker's reports about sedition in Lancashire (which was just a lie). He was a difficult man to convict; he was a nobleman, but not rich enough for very many to profit by his fall nor powerful enough for very many to be his enemies: he was a bluff, hearty, soldierly, sporting Yorkshireman, eighty years old, a victim of misfortune, and if he had been a traitor it had been from what might pass as the highest motives and without his own consciousness, and not on the occasion and in the manner alleged by the prosecution. He was tried by the

persuasion that "in the middle years of the sixteenth century and of the Tudor age the life of our ancient law was by no means lustrous". For the difference between the development of the English enquiry in criminal cases by jury and the inquisitory methods of e.g. France, cf. Holdsworth, I, pp. 315, 317, 319 (in the thirteenth and fourteenth centuries "Presentment by a jury and indictment at the king's suit rapidly took the place of the old criminal appeal", or accusation by the party injured), 320 ("it still retained the idea that the accused was in the position of a defendant as against whom the plaintiff must establish his claim—even though that plaintiff was the crown"); v, pp. 170, 178 (Star Chamber procedure), 183 (its contribution towards the development of a law of evidence, e.g. that a dying man's declaration is admissible as evidence of cause of death), 184 ff. (extraordinary procedure for extraordinary cases, and torture as a supplementary procedure justified by reason of state), 188 (exclusion of capital cases from Star Chamber made it difficult to invoke the excuse of paramount public policy), 189 (but with popular approval that same consideration bestowed enormous advantages on the crown in all state prosecutions, in the ordinary courts). Cf. Spedding in *Bacon's Letters and Life*, v, p. 93, "It is true no doubt, as Coke discovered afterwards, that 'there was no law to warrant torture in England'. But it is also true that the authority under which they were applied was not amenable to the Courts of Law. As the House of Commons now assumes the right to commit any commoner to prison for what it judges to be contempt of its authority, so the Crown then assumed the right to put any commoner to torture for what it judged to be obstinacy in refusing to answer interrogatories. As the judges cannot now call upon the House of Commons to justify the committal, so they could not then call upon the Crown to justify the torture": quoted by S. R. Gardiner, *History of England, 1603-42*, II, p. 275. And cf. *Henry VII*, pp. 49, 50.

<sup>1</sup> Cf. Dodds, II, p. 182.

<sup>2</sup> By his communications with Chapuys, or at the beginning of the Pilgrimage before the pardon.

marquis of Exeter as steward and a score more peers, including Cromwell, who had drawn the indictment: he was found guilty, but his execution was postponed till the king made up his mind whether it would do more good in London or in Yorkshire.<sup>1</sup> Up north it would do "as well for the example as to see who would groan": but apparently it was feared that some might do more than groan, so Darcy was beheaded on Tower Hill: his Garter was given to Cromwell.

Lord Hussey had been tried and condemned with Darcy, and was beheaded at Lincoln. The rest were arraigned on May 16 in Westminster Hall, on the indictment found at York—"conspiring to deprive the king of his title of Supreme Head of the English Church, and to compel him to hold a certain parliament and convocation", and, after being pardoned, "falsely and traitorously" abetting Bigod and Lumley in their conspiracy "to levy cruel war against the king".<sup>2</sup> All were found guilty: Aske was the one who mattered: in general the evidence against them was the same as that against Darcy, the real gravamen of the charge being persistence in the belief that there might be another power in this kingdom beside the king—"he desires (18 Jan.) Darcy to stay the commons till Norfolk's coming, and says he and Sir Robert Constable will do the same. (Shows a traitor's heart, in that he desires a stay only till Norfolk's coming.) . . . (It appears that if there be not a parliament, etc., according to their unreasonable requests, they will revive their traitors' hearts. . . .)"<sup>3</sup> Aske had trusted to have done his duty as well to the king "under his favour" as to his country: even this was a dangerous distinction. In short, any government may be forgiven for regarding as treasonous any inclination to set up a power separate from it or to use force against it: but to bring any such charge against Aske since the pardon required perversion of facts and a very perverse construction of words, and indeed came very near to saying that Aske was a traitor (*a*) because he had and (*b*) because he had not believed the king's promises.

On 25 May 1537 seven prisoners were executed, including Lady

<sup>1</sup> Dodds, II, pp. 186-95.

<sup>2</sup> Dodds, II, p. 198.

<sup>3</sup> *L. and P.* XII (1), no. 847: cf. no. 848 (ii), 4 and 15; no. 1087, p. 497: cf. also Dodds, II, p. 209.

Bulmer, who was burnt, and another five suffered on June 2. There seems to have been a good deal of murmuring at this severity:<sup>1</sup> executions ceased for a time, though there were deaths from plague in the prisons: finally, on June 30 Darcy was executed on Tower Hill, on July 6 Constable at Hull, on July 12 Aske at York, after informing the government of Darcy's communications with Chapuys in 1535 and of his notion of sending to Flanders during the Pilgrimage, and after confessing that he had offended God

in breaking of his commandments, many ways; the king's majesty he had greatly offended in breaking his laws, whereunto every true subject is bounden by the commandment of God, . . . and the world he had offended for so much as he was the occasion that many had lost their lives lands and goods. After this he declared openly that the king's highness was so gracious lord unto all his subjects in these parts that no man should be troubled for any offence comprised within the gracious compass of his pardon.

He desired the people to pray for him, and asked the king's forgiveness, the lord chancellor's, Norfolk's, Cromwell's, "my lord of Sussex and all the world, and thus, after certain orisons, commended his soul to God".<sup>2</sup> He was favoured in one respect, he was allowed to die before he was dismembered.

The crushing of the Pilgrimage of Grace was Henry VIII's Arbela: after that he moved whither he would, and had really conquered both possible worlds. It is fair, then, to treat the rest of the reign as not inscribing a new message but crossing t's and dotting i's: and before doing that it is worth while to make a little clearer the nature of the victory Henry had won and of the forces he had defeated.

They were scattered forces. The northern counties had not only risen piecemeal, and in very imperfect agreement, but they had also failed to make any use of sympathies in the south and abroad: sympathies there were (though when they were uttered they were promptly and severely punished, and they were certainly not strong enough to hinder the musters of Norfolk, Exeter, and others for the assistance of the

<sup>1</sup> Dodds, II, pp. 216 ff.

<sup>2</sup> *S.P.* I, p. 557, referred to by Dodds, II, p. 224: see also Dodds, II, p. 223.

king), in Sussex, Cambridgeshire, Suffolk, Berkshire, Buckinghamshire, Shropshire, Wales, Wiltshire, Worcester, Kent, Oxford, Cornwall, Somerset, Norfolk:<sup>1</sup> and Exeter might have raised the west against Henry, and Montague Hampshire. There were sympathies also among imperialists, Scotchmen, Frenchmen, Italians:<sup>2</sup> a Scotch invasion<sup>3</sup> indeed, or even a French one would have injured the cause it was meant to advance, but the emperor might have been a help: and what about the pope?<sup>4</sup> He and Reginald Pole<sup>5</sup>, created cardinal on 22 December 1536,<sup>6</sup> saw the "necessity of expedition as an answer to the manly and Christian demonstration" the Pilgrims were making; Pole thought "the emissary of the pope in the cause of religion should be assisted in his journey through France and Germany"; he thought also that in case Henry was not so far reduced to repentance as was hoped in Rome "there should be some one [apparently not himself] to exhort the people in the pope's name to stand firm, and a provision of money... a credit with the Fuccari and Belzeri, and the greater the better":<sup>7</sup> but Pole started too late, and travelled much too slowly, and Francis and Charles<sup>8</sup> were far too much preoccupied with each other to help his journey, and Charles and Paul too much burdened with the Turk to give him the money he required.

Even more important than this geographical want of cohesion were the social divisions and differences of demand among the Pilgrims and those who might have acted with them. Aske's principle was denial of the royal supremacy: there were many of the gentry who cared very little for that, and hardly any of the commons who cared for it at all.

<sup>1</sup> Dodds, I, pp. 164-79.

<sup>2</sup> *L. and P.* XI, no. 714, Chapuys urging the Regent of the Netherlands to send 3000 arquebusiers, cf. no. 1296. Nos. 848, 1012, 1100, 1101, 1119, 1173, 1183, 1194, 1203 for France, Scotland, and the pope.

<sup>3</sup> Cf. Dodds, I, p. 335. but for evidence the other way cf. XII (2), p. XI.

<sup>4</sup> Cf. above, p. 267 and earlier.

<sup>5</sup> He had arrived in Rome, on Paul III's summons, at just about the same time as the first news of the Pilgrimage: Dodds, I, p. 336.

<sup>6</sup> And legate for "composition of a general peace, and heresies, and other matters pertaining to the church", i.e. specially the English schism, early in February 1537: XII (1), nos. 429, 430.

<sup>7</sup> XII (1), no. 368.

<sup>8</sup> And besides, Charles's candidate for the English throne was Mary, and the French candidate James V.



The monasteries were a more easily intelligible cause to fight for: but the monastic authorities could not in general make up their minds to stake all with the Pilgrims,<sup>1</sup> and monastic property was apt to be taken by the rebels to meet their necessities or to save it from falling into worse hands.<sup>2</sup> If all the religious had stood together and held by their rights, it might have proved true that "the king could not pull none down, nor all his council":<sup>3</sup> there certainly was a good deal of ecclesiastical stirring at the start of the movement: but once it was under way, though a few friars and a parson or two<sup>4</sup> were active in exhortation and propaganda, and though the confessional was a useful means for knowing and influencing popular opinion,<sup>5</sup> yet the higher clergy were all half-hearted or disapproving, and the clerical element was very far from supplying that unifying force which was necessary: much more necessary when the gentlemen contented themselves with a promise that all should be done in a parliamentary way, while the commons felt, not without reason, that the things they wanted were even less likely to be got from parliament than from king.

The whole incident (for revolt completely defeated dwindles to an incident) helps towards an understanding of what parliament then was, in fact and in idea, partly because in the Pilgrims' minds parliament evidently came, both in time and in principle, so far behind council, interested the gentry much more than the others and interested them mainly and the others solely as the highest authority for registering legality, especially pardon; and also because the whole mode of the rising and its suppression was so far from anything parliamentary, unified, centralised, national. It was not only that the discontent was local and disparate, but also that the forces of order were collected on a national theory, it is true, but on a feudal practice,<sup>6</sup> and kept and paid

<sup>1</sup> Cf. e.g. the prior of Doncaster's shuffling, Dodds, I, p. 251.

<sup>2</sup> Cf. Dodds, II, pp. 38, 139; I, pp. 232, 287.

<sup>3</sup> *L. and P.* x, no. 1264.

<sup>4</sup> And one of them went home early, after having helped himself to fifteen head of cattle and £3 worth of goods: XI, no. 1402.

<sup>5</sup> Cf. Dodds, II, p. 159.

<sup>6</sup> That is, they were mustered on every man's obligation to resist the king's enemies, but practically on the willingness of a great number of individuals to serve Norfolk, Suffolk, Shrewsbury, etc.

even less royally: eightpence a day was the pay for a man and horse, but the royal commanders had usually not enough royal money to meet even that demand, and besides generally had to pay a supplementary allowance out of their own pockets,<sup>1</sup> in the interests of discipline. As for any regular force, "the body of yeomen of the guard instituted by Henry VII, partly for dignity and partly for personal protection, had become inefficient from the laxity used in allowing many absences on account of private business", and when in the spring of 1538 a scheme was drawn up for the appointment of a hundred "spears" on a permanent and efficient footing, the scheme was very slackly handled, and apparently never made effective.

In short, making the largest possible allowance for the help Henry got from the devil, for the unscrupulousness of his diplomacy, and the rumour of his guns, it remains clear that the royal government depended in this crisis, as always, on the acquiescence of the bulk, and on the co-operation of the chief, of its subjects: the motive of ordinary subjects might be fear, and of active subjects greed, yet they must be a fear without excuse and a greed without reliance save in the lack of opposition to the king: Henry VIII had no janissaries,<sup>2</sup> had no longer any treasure to distribute except what he should get from the monasteries (and precisely that the rebellion purported to prevent his getting): he was entitled, indeed, by the fact of rebellion to free himself from the common law and its juries, to use a martial law which any despot might envy: but almost at once he, or his lieutenant, preferred to get back to the procedure which involved the co-operation of all the gentlemen of Yorkshire.

Some kings would have been tempted after the Pilgrimage to feel that they owed everything in the north to Norfolk, and that so uncivil a district could be managed only by the old device of appointing some feudal magnate as satrap. Not so Henry. In vain did the duke urge that the wild people of the marches needed a ruler of good estimation

<sup>1</sup> Cf. Dodds, I, pp. 246, 279, 320: *L. and P.* XII, no. 1143, p. 458, Chapuys reporting (on Nov. 1536) Henry as saying that his expenses amounted already to £200,000. For the rebel finances cf. Dodds, I, pp. 232, 262, 286.

<sup>2</sup> But cf. above, p. 348, and below, p. 421.

and nobility: Cromwell and the councillors with the king remembered what a nuisance "great men" could be, with their controversies and variance; "if it shall please his majesty to appoint the meanest man . . . to rule and govern in that place, is not his grace's authority sufficient to cause all men to serve his grace under him . . . ?" And it was sufficient. Henry supported Cromwell against Norfolk: the latter's arguments were taken in good part but vetoed—"for surely we will not be bound of a necessity to be served there with lords".<sup>1</sup> And though 1536 had threatened the regime as it was not to be threatened again for generations, 1537 saw it (and its genius, Cromwell) more firmly established than ever.

The king's great resource was in fact moral and intellectual: he knew, as his opponents did not even singly, much less collectively, what he wanted next and why he wanted it and what he should do to get it: on the other side there might be a rich family or a large estate agreed on a political object, but not wholly nor for long; or half a dozen gentlemen might make a habit of dining at the *Queen's Head*<sup>2</sup> and conversing, after the departure of the servants, on parliament matters, but such conversations led to no common plan, hardly to a common sentiment; indeed the sentiment of obligation to the king was so deep that it alone would suffice to explain, though no doubt there are other explanations as well, the failure of the higher clergy to supply to the opposition that leadership which it fatally lacked. It really was difficult to doubt that to oppose the king was wicked: you could say that you were not opposing him, only his servants, but you could not go on saying that in face of his denials: you could say that Henry was not king at all, and that expedient was thought of in Lancashire at the time of the Pilgrimage:<sup>3</sup> but it would mean taking the greatest possible risk, since agreement on any alternative title to the throne was impracticable, and defeat in such an assertion must be tantamount to conviction for treason.

Short of that, opposition was opposition to the king: how nearly equivalent to wickedness, disobedience to God, those words seemed

<sup>1</sup> Merriman, I, pp. 199-200.

<sup>2</sup> Cf. *L. and P.* XI, nos. 1405, 1406; XII (2), no. 952.

<sup>3</sup> Cf. p. 333 above.

then, to how many men, it is difficult to remember now, when crime has only to call itself political in order to gain the applause due to virtue. It was an enormous strength to Henry, to begin with, that he himself had no doubt that to withstand him was to withstand God: much more, that most of his subjects, and rather particularly those whose sphere he was invading, uneasily felt that he was right: only a minority, no doubt, agreed with Morison<sup>1</sup> (who probably had his tongue in his cheek) about Henry's being God's "chosen king, a prince that chiefly above all things hath sought and seeketh to set forth his glory, to restore his holy word, to put down hypocrisy, to banish idolatry, and finally to bring this once to pass, that all his people may be as they are called, that is true christians": with this, no doubt, only a minority agreed, but it was an active, determined, and self-conscious minority:<sup>2</sup> and the vast majority went some way with Morison, at least in believing that treason even against Nero, "one of the worst princes that ever the world had", aroused divine resentment and resistance, that "God hath joined with the majesty of a king such a fear that false hearts have no power to offer wrong to a prince, though all opportunities seem to serve them".<sup>3</sup> It was not only protestants who were willing to be persuaded, and to be indignant, that Pole was made legate, "we being then encumbered with sedition and rebellion at home",<sup>4</sup> to see whether he could make the king of Scots pull the sword out of the sheath, and that the "whole cloutry of carnals"<sup>5</sup> with their captain wept long to

<sup>1</sup> My attention was drawn to him by Dodds, II, p. 321: his book *An Invective against that great and detestable vice, treason*. . . spelt his name Morisyne, and was printed in 1539 by Thomas Berthelet. Morison was in Cromwell's service, and the book an official piece of propaganda highly approved by Henry: it is written with immense gusto and skill: see fol. A v.

<sup>2</sup> Nor is it without importance that it is not impossible to argue that Henry's conduct did in the long run of God's providence tend to the results which Morison affirmed to be his supreme object.

<sup>3</sup> E ii.

<sup>4</sup> C ii.

<sup>5</sup> Technical term invented by Morison for "crowd of cardinals": D iii. The joke about "carnal" seems to have been in the air, for Wm. Roy and J. Barlow make Watkyn in *Rede me and be nott wrothe* (probably written early in 1528 but pretty well suppressed by Wolsey) say

"Marry, some men call him Carnall  
And some say he is the devil and all  
Patriarch of all wickedness."

remember the northern insurrection. Most contemporaries, perhaps, were ready to agree that he could "be no subject that shall buffet rulers about a king":<sup>1</sup> most men then, as always, would be impressed by the argument from success applied to Henry, and especially by its particular application—"God hath made him, as all his noble progenitors by right ought to have been, a full king, that is, a ruler and not ruled in his own kingdom, as others were".<sup>2</sup> A good many men were beginning to glory in the van of progress, and to think "their erroneous nurse *Long Custom*"<sup>3</sup> a good retort to *quod semper quod ubique quod ab omnibus*: and it would be partly the same men who hankered after the civil law, and especially its rule that "the master may call him again to bondage and service, whom he hath made free, if at any time after his freedom he show himself unkind":<sup>4</sup> yet it was still worth while to take great pains, and to strain belief, by way of denying the use of inquisitorial methods—"no man requiring him to it, no man thinking of any such thing, he desired to speak with the lieutenant of the tower, and after to speak with some of the king's privy counsel. . . no force, no violence, no torments are used".<sup>5</sup> Few yet felt with Morison's enthusiasm that "who so is a papist, an enemy to God's word, he may well lack power or stomach to utter treason, but he cannot lack a traitorous heart. Whatsoever he be that thinketh the bishop of Rome supreme head of our church of England, can never bear the king such an heart as a true subject oweth his sovereign lord":<sup>6</sup> but it was getting very difficult to deny the second sentence at least: Lord Darcy would not have any one say that "Old Tom"<sup>7</sup> had a traitor's tooth in his head: but are they not traitors' tongues that talk with foreign sovereigns of invasion and insurrection? and is not treason the worst of all crimes, was not Henry right when he "marvelled Norfolk should be more earnest against retaining"<sup>8</sup> such as have been

<sup>1</sup> Morison, C iiiii.

<sup>2</sup> D v: but perhaps few of Morison's readers agreed with him that God sent the plague to punish those rebels to whom Henry had been over-indulgent: D vi.

<sup>3</sup> D.

<sup>4</sup> B i.

<sup>5</sup> E v.

<sup>6</sup> F ii.

<sup>7</sup> Himself.

<sup>8</sup> For the king's service on the border the reivers of Tynedale and Redesdale: *L. and P.* XII (1), nos. 332 and 362, Feb. 4 and 7.

murderers and thieves than such as have been traitors"? and Norfolk right when he hastened to reply "trusting to show that no one less favours murderers and thieves than I, and still less traitors and rebels"?

One thing certain about the Pilgrimage is that the withstanding of it was very expensive. Very early Chapuys talked of its having cost £100,000, and Cromwell was authorised to sell the king's jewels.<sup>1</sup> Much of the expense was borne by individual commanders, rewards were carved out of confiscations, and the whole operation in the end showed a handsome profit because it facilitated and hastened the spoiling of the monasteries; but for the moment the Pilgrimage was costly, and it was indirectly costly also as evidence of a reluctance, even a refusal, to be taxed. The suppression of the Pilgrimage probably cost about £50,000, that is, about half the normal pre-Cromwellian income of the crown:<sup>2</sup> this expenditure, together with those in Ireland and at Calais, Dover, Berwick, and Carlisle, was used by the government as an explanation of its need for more revenue. The need was in truth illusory: even in the very year of the Pilgrimage there was really a surplus: there were deficits indeed in the various revenue departments, but that was because as often as they had ready money the king took it away from them and gave it into the charge of Edmund Denny, keeper of his palace at Westminster.<sup>3</sup> Henry spent largely on building, and after 1538 his household expenses increased rapidly, but still, Cromwell had increased his revenue above his needs and the only real danger of urgent need was war.<sup>4</sup>

<sup>1</sup> Cf. p. 367, n. 1 above.

<sup>2</sup> Not counting, for instance, parliamentary income, as being extraordinary, nor the income collected at Calais, Berwick and Dublin, as being also spent there: Dietz, pp. 141, 138.

<sup>3</sup> Dietz, pp. 142, 143.

<sup>4</sup> Dietz, pp. 140, 143.

## CHAPTER XVIII

### DISSOLUTION OF THE MONASTERIES

For this budgetary achievement Cromwell was indebted mainly to the exploitation of the clergy. First-fruits and tenths in their first five years of payment to the crown yielded an annual average of £16,000:<sup>1</sup> at the same time the clerical tenth averaged nearly £30,000:<sup>2</sup> then there were occasional supplements, like *premunire* fines at the beginning of this period and the clerical subsidies granted in three years out of six just after it, so that in the five years before 1540 the Treasurer of First-fruits and Tenths collected an average of over £52,000, and for the last years of the reign over £70,000.<sup>3</sup>

This was in spite of the inevitable diminution of first-fruits by the suppression of the monasteries, which then naturally ceased to pay them: but the suppression was very soon producing more than previously the whole normal income of the government: the net receipts of the Court of Augmentations were

24 Aug. 1536—Mich. 1538,	£71,616
—Mich. 1539,	£108,028
Average	$\left\{ \begin{array}{l} 1540, \text{ £116,421} \\ 1541, \text{ £116,421} \\ 1542, \text{ £116,421} \\ 1543, \text{ £116,421} \\ 1544, \text{ £253,312} \\ 1545, \text{ £200,511} \\ 1546, \text{ £139,152} \\ 1547, \text{ £66,186} \end{array} \right.$

To these sums should be added some £80,000 from church jewels and plate, so that in the last twelve years of the reign the average net receipts from monastic sources were about £130,000 a year, whereof

<sup>1</sup> But then fell to under £10,000.

<sup>2</sup> But then fell to under £20,000.

<sup>3</sup> Dietz, pp. 138, 139: the last figure includes the clerical subsidies.

a little less than half was true income, which would continue, a little more than half represented the alienation of capital.<sup>1</sup>

As part of the suppression of the Pilgrimage, early in 1537 began the suppression of the larger religious houses, and it went on rapidly in 1538; there were two main methods: one was by attainting the head of a house and then confiscating the institution by consequence,<sup>2</sup> the other by frightening the abbot (of Furness, for instance) into signing ("freely of myself and without any enforcement") a document which surrendered to the king ("and to his heirs and assigns for evermore") "all such interest as I have had or may have" in the abbey, its lands, and possessions, "knowing the disorder and evil life both unto God and our prince of the brethren of the said monastery".<sup>3</sup> Both methods depended on the assumption that a temporary incumbent could part for ever with a permanent right, that Richard Whiting and the abbot of Glastonbury and his abbey were indistinguishable (like Henry Tudor and Henry VIII and England<sup>4</sup>), and both would therefore be all the better for parliamentary confirmation. Both methods involved harshness, and worse, to individuals, and straining, and worse, of facts: the charges

<sup>1</sup> Dietz, pp. 139, 140; Savine, p. 140, reckons the gross temporal income of the monasteries at £120,000. I cannot always make Dietz's figures on p. 240 agree with those on p. 217.

<sup>2</sup> Gairdner, *History of the English Church*, p. 209: it has been asserted, but is not true, that in such cases the possessioners received no pensions: cf. G. Baskerville, *Essays presented to R. L. Poole*, p. 442.

<sup>3</sup> Thos. Wright, *Three Chapters of Letters relating to the Suppression of Monasteries* (Camden Society, 1843), p. 153: the surrender was witnessed by Sussex as the king's lieutenant for Lancashire and by five others, including Fitzherbert J., "of the king's counsell within the said county".

<sup>4</sup> There was from Henry's point of view nothing worse done by the Pilgrims than their making of distinctions where none should be, e.g. *L. and P.* XI, no. 1244 (probably Sir Thos. Tempest), "where it is alleged that we should not take upon us to assign his grace's counsell, it is necessary that virtuous men that loveth the commonwealth should be of his counsell. [If] he will have a counsell for his person at his pleasure, then it is necessary that a[nother] counsell be had for the commonwealth, as the counsell of Paris is in France...". My orthography (except counsell) and emendations. Cf. *Henry VII*, p. 161, Fortescue's argument (*Governance of England*, ch. vi) that a king would not be weakened by incapacity to alienate crown property. And cf. p. 535 below, Henry's will distinguishing between his successor's public and private affairs. And p. 124 above, Wolsey boggling at surrendering the property of the archbishopric of York; p. 102, John's alleged surrender of the kingdom; also *Henry VII*, pp. 6, 45, 151, 157.



of complicity in rebellion, resistance to the supremacy or succession, or of personal immorality or superstition, which provided the fulcrum for the lever of attainder or surrender, were pushed with no regard for justice: Cromwell noted in his memoranda: "The abbot of Reading to be sent down to be tried and executed at Reading with his complices. Similarly the abbot of Glaston at Glaston. Counsellors to give evidence—against the abbot of Reading, Mr Hynde and the king's attorney; against the abbot of Glaston Ric. Pollard, Lewis Forstew, Thos. Moyle. To see that the evidence be well sorted and the indictments well drawn".<sup>1</sup>

It was in the autumn of 1539 that the three great abbots of Glastonbury, Colchester, and Reading were thus executed, and that may be taken as marking the completion of the attack on the monasteries, the last to surrender being Waltham Abbey, on 23 March 1540.<sup>2</sup> When the parliament of 1539 opened on April 28 there were only seventeen abbots attending, and three who had sent proxies,<sup>3</sup> as compared with twenty-eight altogether in 1536, and when this parliament began its third session, on 12 April 1540, they were all gone.<sup>4</sup> The legality of the whole process by which the monasteries disappeared, or of its particular steps, does not seem to have been questioned.<sup>5</sup>

<sup>1</sup> *L. and P.* XIV (2), no. 399. I think these notes have usually been over-emphasised: a man might write down, in a private note intended only for himself, "to be tried and executed", meaning "if found guilty (as I suppose they will be)". Cromwell had indeed reason enough for practical certainty: and about Whiting, for instance, he no doubt knew that there was evidence enough to show his recalcitrance to the Succession Act, and that recalcitrance to that act was punishable as treason: whether the evidence was fairly obtained, or whether the law about the succession was morally fair, are other questions: cf. Wright, pp. 255–8, 262.

<sup>2</sup> Gairdner, p. 211: there were a few colleges and hospitals which surrendered later that year.

<sup>3</sup> Glastonbury's proctor was Cromwell, *L.J.* 1, p. 103: its steward is supposed to have been Jack Horner, of the nursery rhyme.

<sup>4</sup> There were none present at the second session either, on Nov. 3, but then there had been a general leave of absence, very few persons were present, and nothing was done except to prorogue again.

<sup>5</sup> W. A. J. Archbold, *Somerset Religious Houses*, p. 1, points out that there were precedents *t.r.* William II, John, Edward II, Edward III, Henry V, but also that a papal bull had always (and as lately as by Wolsey) been thought necessary: Baskerville, *Bristol and Gloucester Archaeological Society*, vol. XLIX (1927), p. 80, writes, "It may probably be said with truth that though they [the religious] might, and often did, question the wisdom and justice of the royal actions they did not dispute the legality of them".

In the first session of the 1539 parliament<sup>1</sup> were passed the acts which gave statutory form to the destruction of the religious houses. The principal one was 31 H. VIII c. 13: since in the last five years divers heads of religious houses had "of their own free and voluntary minds... by the due order and course of the common laws" given all the property of their houses to the king and his heirs, accordingly it was enacted that all such houses "dissolved suppressed renounced relinquished forfeited given up or by any other means come to his highness", and their property, should be assured to Henry and his heirs; and that all that should come to him in future should be by authority of this act deemed to be in his actual seisin; there was also a proviso for annulling leases and grants made shortly before dissolution.

This bill had been introduced in the house of lords on 13 May 1539 by the lord chancellor:<sup>2</sup> on May 16 it was read for the second time, on May 19 read for the third time and agreed to, on May 23 brought back, with half a dozen others of small importance, from the commons, and finished off.<sup>3</sup> On the same day, another bill, a corollary to this one, was introduced by the vicegerent, read three times, handed to the king's attorney for transmission to the commons, and immediately brought back from there, *et expedita*: this was 31 H. VIII c. 9, which in consideration of

the slothful and ungodly life which hath been used among all those sort which have borne the name of religious folk,<sup>4</sup> and to the intent that from henceforth many of them might be turned to better use as hereafter shall follow, whereby God's word might the better be set forth, children brought up in learning, clerks nourished in the universities, old servants decayed to have living, almshouses for poor folk to be sustained in, readers of Greek Hebrew and Latin to have good stipend, daily alms to be ministered, mending of highways, exhibition for ministers of the church,

accordingly authorised the king to erect as many bishoprics<sup>5</sup> as he should think fit: how such varied benefits were to be drawn from this

<sup>1</sup> For this parliament apart from its ecclesiastical acts, cf. below, pp. 412 ff.

<sup>2</sup> Thos. Audley.

<sup>3</sup> *L.J.* 1, pp. 108, 110, 112.

<sup>4</sup> Presumably there were nearly a score of abbots present.

<sup>5</sup> Cf. above, p. 250, the Suffragans Act of 1534.

measure was not explained, and in the event Henry did not think fit to erect many bishoprics.<sup>1</sup>

Another act connected with the dissolution of the monasteries which cost a great deal more trouble was 31 H. VIII c. 6. On May 5 the original form of this was introduced in order to permit persons formerly religious to hold land, it was read a third time on May 6 and on the 8th remitted to the commons: apparently they did not like it, for on June 20, the original bill having been rejected, a remodelling of it was by them brought to the lords, who gave it a first reading<sup>2</sup> then and passed it to the lord chancellor on June 23: "all and singular such religious persons . . . which be or hereafter shall be put at their liberties from the danger servitude and condition of their religion and profession" might acquire title to land, and sue and be sued like other subjects; only, they might not succeed to lands as heirs by title accrued before their "deraignment", nor might priests or persons voluntarily professed after the age of twenty-one contract matrimony.

The legal abolition of the monastic life was completed by these enactments, and what had been for centuries one of the principal elements in the make-up of England was definitively destroyed; but both the men and the things which had belonged to monasteries continued to exist, and it remains to see what became of them and how they were re-constituted as part of the future England. Some few, indeed, of each ceased to exist—the abbot of Glastonbury, for instance, and the rood of Boxley, the abbot of Colchester and Darvel Gadarn<sup>3</sup> were alike dismembered and altogether got rid of: but the great mass of monks continued to exist, and if the monasteries did not, at least the lands by which they had been supported did: their roofs might be sold off to Antwerp financiers but their fields stayed English, and had to be worked and managed by Englishmen.

How much of the land of England was "monastic" is an unanswer-

<sup>1</sup> Westminster, Oxford, Peterborough, Bristol, Gloucester, Chester.

<sup>2</sup> *L.J.* 1, p. 121.

<sup>3</sup> A Welsh image, reported to be so powerful that it could save souls out of hell: on the same fire was burnt Friar Forrest, formerly confessor to Catharine of Aragon, for his obstinate adherence to papal authority: Gairdner, *English Church in the XVth Century*, p. 200.

able question: the traditional medieval calculation was that the clergy occupied the third part of the realm:<sup>1</sup> the latest authority says that "the spiritual estates of the realm may have amounted to at least a quarter of the whole of landed property in England".<sup>2</sup> But the difficulty of finding out what proportion was held by seculars and what by regulars, by what tenures and with what burdens, is too great. It seems safe enough to guess that the area of monastic lands was at least one sixth of the whole of England, but held by all sorts of different titles and with very varying proportions of the profits.<sup>3</sup>

It is possible to be more precise about the monastic revenue, though not about the proportion it bore to the whole national income.<sup>4</sup> It did not all come from land: between its parts, the main distinction of which the recipients were conscious was that between temporal and spiritual, the second almost wholly tithe:<sup>5</sup> the net total of the two was, according to Dr Savine,<sup>6</sup> £136,361, of which four fifths were temporal: the income from land was something like £100,000, of which not much more than a tenth came from demesne and woods, the rest from tenurial payments.<sup>7</sup>

Such guesses at the resources held by monasteries a little before their dissolution may offer some indication of what it was that Henry had to distribute. It may be asked why he did not keep it all for himself. Very likely one reason was a perfectly conscious calculation that the distribution of monastic property was the surest way to make the suppression permanent: but this does not seem to have been a main reason, at least at the beginning. In the three years after the smaller dissolution, from April 1536 to March 1539, only one eighth of the confiscated domain was alienated, almost all by sale at low prices to

<sup>1</sup> Cf. Savine, *English Monasteries*. . . , p. 80, for later estimates of the monastic share of England—more than a third (Simon Fish, *ca.* 1538), about a third (Gairdner), 2,000,000 acres (Gasquet).

<sup>2</sup> *Acta Universitatis Lundensis*, N.S. XIX (1923), S. B. Liljegren, *Fall of the Monasteries*, p. 15.

<sup>3</sup> Savine, p. 83.

<sup>4</sup> Which Herbert put at between  $\frac{1}{3}$  and  $\frac{1}{4}$ , Collier at  $\frac{1}{10}$ , Hume, followed by Cobbett and Dixon, at  $\frac{1}{10}$ : Savine, p. 87.

<sup>5</sup> Savine, p. 107: all Savine's figures omit Wales, friaries, hospitals, and colleges.

<sup>6</sup> P. 98.

<sup>7</sup> Savine, pp. 140 ff.

servants of the crown.<sup>1</sup> That was a class which clearly had to be allowed to participate; and indeed a wider participation could hardly be avoided, even if the government were not intelligent enough to foresee its stabilising effect. Property with such a variety of tenures and encumbrances, scattered so widely and needing so detailed a knowledge for its exploitation, could not have been centralised: moreover, for generations the monks had been more and more putting its management into the hands of the local gentry, and in their last days they seem to have remembered the parable of the unjust steward.<sup>2</sup>

The principal "spiritual" income of the monasteries, for instance, was impropriated tithe: the monks could not very well collect this themselves, and they would not willingly trust a vicar (who had to live on the "lesser" tithes or a small salary), so the great tithe was collected by a layman as agent or lessee: "After the Dissolution he would petition the Augmentations Court to renew the lease, or, if he had sufficient money, even to sell the rectory to him, and the Government would readily agree to such proposals, seeing in them only a confirmation of the situation".<sup>3</sup> Then there were many other lay administrators—stewards, bailiffs, receivers, auditors. The 'perpetual' fees paid to the higher of these officers are indeed not included in the net monastic income as given in the last paragraph but one, so that they do not affect the amount Henry had to distribute: but they gave the beneficiaries an inside knowledge and an expectation of profit which made them strong claimants for the inheritance, and of course the perpetual fees had not been the whole of their profits or of what must be deducted from the owners' true income, unless they themselves became the

<sup>1</sup> Dietz, p. 148: he says (with reference to *L. and P.*) this eighth was worth £11,633 p.a., which seems far too much compared with Savine's estimate of the whole monastic property: but perhaps I am misunderstanding: cf. p. 382 below and p. 374 above.

<sup>2</sup> Shortly before the suppression of Bodmin Priory, prior Munday assembled his brethren in chapter and said "I think it good to give unto such as have been good to the house some lease or other preferments to the intent they should be the better for us thereafter". The brethren, and the Munday family, profited by the advice: and there were other instances: G. Baskerville, in *Essays presented to R. L. Poole*, p. 447; cf. Archbold, p. 323, immense number of grants of annuities made just before the Suppression.

<sup>3</sup> Savine, p. 113: cf. previous pages.

owners. It may even be that as officer of a monastery a gentleman was sometimes in as good a position financially as later when he possessed its lands: certainly gentry had often begged for the continuance of a religious house whose lands they afterwards bought,<sup>1</sup> and in some cases they found their new lands burdened with pensions which at first exceeded their return.<sup>2</sup> In social rank monastic officers ranged from the earl of Shrewsbury, who in 1535 was steward<sup>3</sup> in eleven monasteries, to J. Taynton, who was paid 2s. a year as rent-collector in Tiverton.<sup>4</sup> Certainly more than half the stewards, and many of the farmers, were gentlemen. Many local gentlemen, also, might claim to be founders' kin, and thus to have some sort of reversionary rights, or had old claims of other kinds.<sup>5</sup> Then, the process of dissolution took years, and for years before it began the project had been in the air, so that all these people had time enough to inform and fix their attentions, and the monastic authorities from Wolsey's day onward had been tempted, often irresistibly, to sell movables and to let land cheap and to grant annuities and offices.<sup>6</sup> In short, a powerful section of the population, mainly but by no means solely of the governing class, especially powerful by its local knowledge and connections, was already co-operating, for profit, in the exploitation of monastic resources, and it would have been a very rash government which tried to dispossess them as well as the monks.

What was the value that passed, without going round by the crown, straight to new holders, and who they were, cannot be guessed, though the Court of Augmentations tried hard to trace it: how much was

<sup>1</sup> Baskerville, *Bristol and Gloucestershire Archaeological Trans.* vol. XLIX (1927, published 1928), p. 78 n.

<sup>2</sup> Baskerville, *Poole*, p. 443.

<sup>3</sup> I.e. nominal president of their courts: but the actual work of presiding would habitually be done by an assistant or deputy.

<sup>4</sup> Savine, p. 251: cf. p. 254, how the steward of the nunnery of St Sexburge became its proprietor, and p. 255, Cromwell, Norfolk, Suffolk, etc., as stewards, etc.

<sup>5</sup> Cf. revival of old claims, and usurpations, in connection with chantry lands, Archbold, p. 172.

<sup>6</sup> Cf. Archbold, p. 169; Savine, pp. 188 ff.; *L. and P.* XIII (2), no. 528 (2). Also G. Baskerville, "Dispossessed Religious of Gloucestershire", in *Bristol and Glos.* p. 67, for transferences of advowsons to trustees or private persons on the understanding that a member of the house in question should be presented at the next vacancy.

gained by the crown has already been indicated, and it now remains to indicate how much it distributed, and to whom.

First of all, there were the religious themselves: now that all the houses had gone, monks could not be accommodated by being moved into other cells: therefore there was a development of two methods often used before, pension and capacity. Pensions had formerly been confined to heads of houses, who could not be transferred like simple monks: now that the monks could not be transferred either, the method was extended to them, and ejected monks were entitled to pensions either from the crown or from grantees of monastic property.<sup>1</sup> Heads of houses were very well treated, so well that the motive of bribery has been suspected:<sup>2</sup> besides a generous distribution of gratuities and pensions, there was plenty of promotion for abbots: a dozen became bishops and another dozen deans,<sup>3</sup> not to mention prebendaries and such.

The provision for the rank and file was naturally not so ample, though it seems fair to describe it as sufficient. The minimum pension was small, but it was secure,<sup>4</sup> and it was enough for "single persons who chose to live without occupation".<sup>5</sup> Most of the ex-religious, however, were quite willing to be occupied, and the system of obtaining capacities, licences to hold benefices, was familiar to them long before the Suppression, the only difference being that the fountain-head was now<sup>6</sup> Canterbury instead of Rome. Whoever, whether the crown or a private person, had to pay a pension to a monk would naturally think of that

<sup>1</sup> Grantees sometimes complained that this obligation outweighed their benefits, but of course it would be a diminishing burden: cf. Baskerville, *Poole*, p. 443. Heads in general had everything handsome about them, and plenty of servants, and, in many cases, wives and children: cf. Baskerville, *Poole*, p. 450.

<sup>2</sup> By Archbold, e.g. p. 102: "The Prior of Montacute received in all, capitalizing his pension, about £20,000 in our [1892] value."

<sup>3</sup> Baskerville, *Bristol*, p. 70; *Poole*, p. 451.

<sup>4</sup> Apart from clerical subsidies which "involved a deduction from the pensions, and the financial stress of successive administrations sometimes caused delay in the payments": Baskerville, *Poole*, p. 445; cf. *Bristol*, p. 68.

<sup>5</sup> Baskerville, *Poole*, p. 446, quoting from Jas. Davidson, *History of Nevenham*, p. 104.

<sup>6</sup> 25 H. VIII c. 21. Cf. Baskerville, *Poole*, p. 440, dispensations since 1533 treated as void by Mary, but regularly produced in answer to episcopal visitation t.r. Henry VIII and Edward VI, and as late as 5 Elizabeth.

monk when appointing to a benefice, which would exonerate him from the pension: the ex-religious who were bishops or otherwise attached to cathedrals would look after their brethren: and patronage had been put into convenient channels by transfers of advowsons shortly before the Suppression:<sup>1</sup> so that it is not strange if the great bulk of the monks were speedily provided with livings. There seems to have been very little emigration, beyond a small trickle of Carthusians (to whom their pensions continued to be sent), and the great majority of the religious were no doubt made comfortable, especially since a moderate pluralism was still practicable, and since pension and benefice could be enjoyed together provided they came from different sources.<sup>2</sup> By 10 April 1540 the French ambassador could write, without much exaggeration, "how parliament a year ago brought religion here into conformity with the fashion of the Church, except the withdrawal of obedience to the Holy See and the suppression of religious houses, in which they have so proceeded that in all England is not a single monk who has not changed his habit for the robe of a secular priest".<sup>3</sup>

Friars and nuns were not quite so easily disposed of: the former had very much smaller, and the latter much smaller, property than the monks, and the nuns could not be given care of souls. The nuns<sup>4</sup> suffered most from the Suppression, but they got pensions sufficient to keep them as paying guests with their friends or relatives, and in course of time a good many married,<sup>5</sup> and their husbands<sup>6</sup> drew the pensions. Friars (apart from heads of houses) received no pensions,

<sup>1</sup> Cf. p. 379, n. 6. At this time almost all monks were priests.

<sup>2</sup> Cf. Baskerville, *Bristol*, pp. 71-6; *Poole*, pp. 446, 448, 452-9, 465 n.

<sup>3</sup> *L. and P.* xv, no. 485: Marillac expected that the "new parliament, which commences on the 20th, . . . will finish the affairs about religion. . . . Nothing else is spoken of except the expected return of Duke Philip of Bavaria to marry the Lady Mary and the jousts and pastimes at the coronation [of Anne of Cleves]. . . ."

<sup>4</sup> Baskerville, *Poole*, p. 460, about 1300 of them, and 400 canonesses; for the amount of the pension, usually £3 per annum, cf. Archbold, p. 103. Nunneries had much smaller incomes and fewer servants than monasteries: cf. Savine, p. 222.

<sup>5</sup> "Usually" according to Baskerville, *Poole*, pp. 460 n.: cf. G. S. Thomson, *Two Centuries of Family History*, p. 124, for a good many nuns marrying, and for the Russell lady who was last abbess of Tarrant doing pretty well out of the Suppression, with a good pension, cushions, carpets, silver beer-mugs, and silk petticoats.

<sup>6</sup> Cf. Archbold, p. 104; Baskerville, *Gloucester*, pp. 63, 77; *Poole*, p. 462.



only small gratuities at most,<sup>1</sup> but there does not seem to have been any difficulty in providing them with livings.

This account may sufficiently explain how, with a deal of hardship and a great deal of grumbling but without unpardonable intolerance or indigestible acrimony, the religious<sup>2</sup> when ejected from their communities were absorbed by the community. It may show also how<sup>3</sup> the expense involved in that process was a rapidly dwindling one, an outgoing from monastic property which only for a short time affected its value: it remains to show who were the recipients of that value.

Dr Savine<sup>4</sup> has calculated that there were about sixteen hundred grants to a thousand grantees, who between them paid nearly £800,000 for lands whose approximate annual value was £90,000.<sup>5</sup> Of this £90,000, £20,000 went to spiritual corporations,<sup>6</sup> leaving £70,000 a year for bribing laymen: of this sum £16,000 went to peers, £7000 to courtiers, £10,500 to crown officials, and officials of the court of augmentations and other new courts, £3500 to the king's servants, £2000 to lawyers and physicians, £500 to clerks and yeomen; industrialists took £6000, lay corporations £1000, and £23,500 is of uncertain destination. It was the peers, courtiers, crown and augmentations officials who got the highest proportion of grants without payment, or at least with no consideration stated. The largest grantees were Cromwell, Norfolk, Rutland, Audley, and a dozen more official peers, half a dozen augmentations officials, half a dozen gentlemen of the privy chamber, the king's secretary, master of the horse, treasurer of the household. Of thirty-one persons granted land worth £200 a year or more, a half are named on Strype's lists of privy councillors for 1548

<sup>1</sup> In spite of the VI Articles and 31 H. VIII c. 6, p. 376.

<sup>2</sup> According to Savine, p. 265, about 7500, not counting friars: their lay dependents about three or four times as many.

<sup>3</sup> With the help of deaths and commutations as well: cf. Archbold, p. 115.

<sup>4</sup> See Appendix II to H. A. L. Fisher's *Political History of England, 1485-1547*: the figures exclude Welsh monasteries, friaries, hospitals, and colleges.

<sup>5</sup> In 1539 a river navigation bill for Exeter provided that twenty years' purchase should be paid for land compulsorily required: cf. F. Clifford, *History of Private Bill Legislation* (1885), I, p. 479.

<sup>6</sup> Who paid in return £1620 and also gave lands in exchange, to unascertainable value but in the case of twenty-four out of the fifty-five grants: H. A. L. Fisher, Appendix II.

and 1552.<sup>1</sup> The largest single purchaser was Sir Richard Gresham,<sup>2</sup> who gave over £11,000 for the domains of three Yorkshire monasteries.<sup>3</sup>

These figures and names do no more than confirm what inherent probability would any way have made almost certain about the first recipients of monastic property: but these did not by any means always retain it for any considerable time, and no doubt in many cases<sup>4</sup> were nothing or little more than channels of transfer. In most cases land was obtained only to be sold again: syndicates of London merchants<sup>5</sup> were frequently original purchasers, by way of speculation no doubt. Sometimes city corporations bought, in a few cases clerics: these purchases would be for investment: so would those few made by yeomen.<sup>6</sup> In general the profits of the confiscations did not all go straight to one set of grantees and stay with them: the crown<sup>7</sup> took one profit—accepted lands in exchange, or money, or knight service, or made the grant only for a life or a period: the original grantee more likely than not sold again, and if he did not he let on lease. The effect was that there were many more than the original thousand grantees interested in preserving the settlement, and that these interested persons represented all classes.

Another effect was that the attempt to endow the crown with clerical property had after all but small permanent result. At first<sup>8</sup> most of the land had been retained, but in March 1539 began the policy of selling great quantities.<sup>9</sup> This was especially for expenditure on arma-

<sup>1</sup> R. H. Tawney, *Agrarian Problem*, referring to J. Strype, *Ecclesiastical Memorials*.

<sup>2</sup> He had been lending money to the king as early as 1511, and had been a gentleman-usher extraordinary since 1516: had championed Wolsey's demand for a benevolence in the common council in 1529: had "frequently acted as the state's financial agent": in Jan. 1534 he was one of seventeen commissioners for London to enquire into the value of benefices: knighted Oct. 1537: caused 1200 masses to be said on the death of Jane Seymour: petitioned that three hospitals in London should be used for the poor and sick instead of for idle monks: advised the government on exchange questions: died early in 1549. Cf. *D.N.B.*

<sup>3</sup> According to the *D.N.B.* for lands valued at £300 per annum he offered £7000, i.e. 23½ years' purchase.

<sup>4</sup> Especially of augmentations officials: cf. Liljegren, p. 124.

<sup>5</sup> Cf. Liljegren, p. 123: and Tawney, p. 381.

<sup>7</sup> Cf. Liljegren, p. 29.

<sup>9</sup> According to Dietz, p. 149, at a regular price of twenty years' purchase.

<sup>6</sup> Cf. Liljegren, pp. 124, 125.

<sup>8</sup> Cf. p. 377 above.

ment, and for the same reason there were in 1543 and 1544 and later renewed stimulations of sale,<sup>1</sup> with the result that by the end of the reign two thirds of the monastic land had been alienated outright and almost the only continuing advantage left to the crown was its revenue as lessor of the remaining third:<sup>2</sup> the £800,000 of purchase money had been spent on the war with France.<sup>3</sup>

That same cause of expense was the principal, and certainly the sincerest, of the reasons alleged for passing (1545) the act<sup>4</sup> dissolving "colleges free-chapels chantries hospitals fraternities" etc., with a notable saving for the common law in the provision that although the Court of Augmentations was to hear any suits about chantry lands which concerned the king, yet "all other matters . . . between any of the king's subjects of for or concerning" chantry lands were to be tried and determined according to the common laws and statutes of this realm:<sup>5</sup> the preamble alleged that chantry property was being misapplied by covetous persons, some claiming to be founders or patrons, and would be much better spent on the king's military and other necessities; accordingly all gifts and surrenders to the king were declared valid and all other invalid, and the king was authorised to confiscate as much more such property as he chose. In fact he had already begun to do so, but did not go much further after this statutory confirmation, probably because the chantries did not yield ready money,<sup>6</sup> and the bulk of them were left to be suppressed in Edward VI's time.<sup>7</sup>

The other most obvious result of the Suppression, along with the transference of property, and a result much more easily calculable, was the alteration of the composition of parliament. When the Dissolution began the upper house contained twenty-eight bishops and twenty-

<sup>1</sup> Liljegren, p. 26.

<sup>2</sup> Most of the remaining third seems to have been let on lease at moderate rents (slightly increased), and with fines for renewal every twenty-one years instead of every sixty or more: cf. H. A. L. Fisher, Appendix II.

<sup>3</sup> Dietz, p. 149.

<sup>5</sup> 37 H. VIII c. 4, s. 8, 9.

<sup>4</sup> 37 H. VIII c. 4.

<sup>6</sup> Cf. Dietz, p. 157.

<sup>7</sup> Cf. Archbold, pp. 24-8, 104, 172: he says that the chantry priests had had sufficient incomes (about £5 or £6), that they received pensions averaging £4. 5s. 10d., that private persons secured a good deal of the chantry property, and that in very few cases were the promises about education carried out: his information, of course, is confined to Somerset.

eight abbots,<sup>1</sup> a clear and permanent majority, which should have been also a moral and intellectual, if not an economic and political, preponderance: after the Dissolution the lay lords for ever outnumbered the bishops, and if the bishops had still an intellectual superiority,<sup>2</sup> they rather lacked moral weight: they could not pull together; those who inclined to opposition had fatally missed a splendid chance of showing that what they supported was the Cross. Not for nearly a century<sup>3</sup> could a churchman aspire to be a statesman, and then Laud was the end of his line, and his end was on the scaffold.

It was not only in parliament that the clerical factor lost weight: something similar was happening all up and down the country. Hundreds of estates whose lords had been monastic were now dependent on laymen. The newness of these *novi homines* has often been exaggerated: in most cases their families had been gentle two hundred years or more:<sup>4</sup> what was new was not this element, but the disappearance of another element. The gentry were also enormously strengthened by the acquisition of tithes and advowsons and by the growing difficulty, soon impossibility, of preventing clerical marriages: if it is near the truth to say that the Church became the junior partner of the State, it is still nearer to say that the parson became the squire's little brother. This development, especially in the matter of tithe, did much to make the poor, and indeed the non-genteel classes, grudge at the church at the very time when they were regretting and exaggerating the benefits formerly distributed at monastery doors, and the disappearance or impoverishment of schools and hospitals. Nor were the half-dozen poor laws of Henry VIII, and the dozen of his children, a consolation even if they were an improvement: and of course memory tended to let slip the delinquencies of old landlords while groaning at new, and the legislative attempts<sup>5</sup> to hold these latter to the husbandry and housekeeping of their predecessors were not likely to be successful.<sup>6</sup>

On the other hand, not all the immediate social results of the Suppression were clearly bad. Monkish landlords were peculiarly likely

<sup>1</sup> Besides two priors.

<sup>2</sup> After Cromwell's fall, at any rate.

<sup>3</sup> Except in Mary's reign.

<sup>4</sup> Archbold, p. 168.

<sup>5</sup> Cf. 27 H. VIII c. 22, c. 28, s. 9.

<sup>6</sup> Cf. Archbold, p. 302: cf. *Henry VII*, p. 169.

to be non-resident.<sup>1</sup> Then again, if this great shifting of property, like economic revolutions in general, pressed cruelly on some points in the lower strata of the economic scale, it also loosened some of the lowest-placed social units and allowed them to rise. On the Somerset lands of Glastonbury Abbey, for instance, there were at the time of the Suppression not less than ninety-seven bondmen, and by the end of the century there were none at all:<sup>2</sup> moreover, this change was due at least partially to deliberate royal policy.<sup>3</sup> Another result, unintended, and not so clearly good or bad on the whole, was a very great extension of leasehold tenure.<sup>4</sup>

<sup>1</sup> Wm. Roy, *Rede me and be nott wrothe* (1528, ed. Arber, 1871), after saying (p. 97) "Hospitall abbeyes thou fyndest but feawe" goes on (pp. 99, 100):

"After they had spoyled gentill men  
They vndermynded husbande men  
In this manner theym robberyng.  
Wheare a farme for xx li. was sett  
Vnder xxx they wold not it lett  
Raysyng it vp on so hye a some  
That many a good husholder  
Constrayned to geve his farme over  
To extreme beggary....

To tourne fayre houses into pasture  
A newe waye they do invent  
Lettyng a dozen farmes under one  
... they have brought to sorowe  
In lykwyse the spretualte  
Surely through improperation  
Of innumerable benefices...."

And cf. *A proper dyaloge between a Gentillman and a husbandman* (about the end of 1529, printed in the same volume), p. 139:

"But nowe their ambicious suttlete  
Maketh one fearme of two or thre  
Ye some tyme they bringe vi to one".

Satirical controversialists are not good witnesses: they exaggerate the extent and the intensity of the vices they allege: but they try not to allege the most unlikely vices.

<sup>2</sup> Cf. Archbold, p. 302: cf. *Henry VII*, p. 169.

<sup>3</sup> Whose sole motive may have been fees: but the result was the same: cf. Dietz, p. 153.

<sup>4</sup> Archbold, pp. 330 ff.

## CHAPTER XIX

### BUDGET, AND DOGMA, AND DYNASTY

It is easy to exaggerate the economic effect of the Dissolution, the loss to the poor and the gain to the crown, and it is equally easy to underestimate other factors, to forget (for instance) that the debasement of the coinage<sup>1</sup> had more to do with the increase of Henry's resources towards the end of his reign and with the enhancing of rents than had even the suppression of the monasteries.

Henry's family naturally became more costly as it grew up, and his devotion to the expensive hobby of building did not diminish: but it was war which really dominated his finance, as it has dominated that of most governments. From the middle of 1537 war with France threatened continually and increasingly: in August 1542 war broke out with Scotland, and France helped Scotland: in 1543 there was an English expeditionary force in Flanders, and in 1544 Henry invaded France: this last war of Henry's cost him in all well over two million pounds.<sup>2</sup> As early as 1539 Cromwell had perceived dimly, but very dimly, that he was living in one of those periods, uncomfortable for governments, when the cost of war is going up, and he began projects for more taxation, and charged Morison to prepare arguments for their defence.<sup>3</sup>

<sup>1</sup> Cf. G. C. Brooke, *English Coins* (1932), p. 174. "There was nothing new in the circumstances which caused the first step to be taken towards the debasement of the coinage . . . it was only when Henry VIII's resources were becoming depleted, and he had already had experience of the profit available from a debased coinage, that he carried to extreme limits a step originally taken with the object of safeguarding English gold against competitive foreign currencies . . . importation of French and Flemish gold coins of disproportionate gold value remained for several years unchecked, and drained the country of its finer coin. Not till 1526 were steps taken to remedy this evil, and then the remedy proved fatal. The issue of new coins of 22 ct. gold and a reduction in the weight of the old coins paved the way for more substantial debasement. Henry VIII was unable to resist the temptation. Regardless of the inevitable financial catastrophe, he grasped at the easy revenue, and in his last few years he not only reduced gold to 20 ct., but silver he debased to one part silver and two parts alloy." For details, see later pages.

<sup>2</sup> Dietz, p. 147.

<sup>3</sup> Dietz, p. 148, referring to *L. and P.* XIV (1), no. 869: Morison's main argument was that Henry deserved well paying for restoring England to "knowledge, freedom, right religion and right worshipping of God", and might claim any sacrifice for repelling the pope: and next after that that the English could well afford to spend a great deal less on their bellies.

But these first projects came to nothing, probably because it was not worth while going on with them while all needs could be met from monastic confiscations.<sup>1</sup> In 1540 direct parliamentary taxation again became necessary; a subsidy was obtained, to be paid in two years, and four fifteenths and tenths payable in four years,<sup>2</sup> and a clerical subsidy confirmed. In that year, too, and just after, the government had great windfalls,<sup>3</sup> from the blasts of attainder, receiving large sums from the estate of Cromwell himself, from Lady Salisbury, John Neville, Dacre of the South, and others.<sup>4</sup> But more and more money was needed: in 1542 a loan was raised, in 1543 lay and clerical subsidies were obtained, and a new loan was tried: this last, in spite of instructions to all curates to preach in its favour, as a good deed against the infidel Turk, produced less than two thousand pounds. The sale of land was pushed on, lands were mortgaged, nearly six thousand pounds was received for licences exempting landholders and officers from attending the king to war, money was borrowed from Flemish and German bankers. But the great financial device of the end of the reign was the debasement of the coinage.<sup>5</sup>

This was not a new invention: it had been employed in 1489, 1524, 1526, and 1542, and seems then to have been a legitimate measure to prevent the driving out of English coin by inferior stuff from the continent: but now that was clearly an excuse, and the real object was profit. This was an evil policy, no doubt, perhaps more wicked than the attack on the monasteries: and it was a shortsighted policy, tending to hasten the price rise which had already set in and to diminish the true revenue, the revenue regarded as purchasing power: but so far as Henry was concerned it was highly successful, and in his last years the

<sup>1</sup> Cf. p. 383 above: and in 1540 the possessions of the Hospitallers of St John began to be confiscated.

<sup>2</sup> The lay subsidy and the fifteenth and tenth produced £153,500 in Feb. 1541 and Feb. 1542.

<sup>3</sup> Not always without shaking the trees: e.g., the haste with which the duchess of Norfolk was indicted lest she should die before the attainder: *L. and P.* xvi, no. 1433, and cf. nos. 1422, 1437.

<sup>4</sup> It is to be noted, by contrast with the effect of attainting abbots, that the king did not in these cases of attainder simply take the capital of property which had been entailed: cf. *L. and P.* xvi, nos. 978, 1019, 1422.

<sup>5</sup> For all this paragraph, cf. Dietz, pp. 149-54.

profits of the mint were his main reliance, producing even more money than the sale of monastic lands. Between 14 May 1544 and 28 January 1547 the profits on the currency were £363,000: in the next four years £537,000.<sup>1</sup>

Even so, it was not enough. The 1544 campaign cost two and a half times as much as the estimate of £250,000; and more than half a million went again in the following year. A benevolence was thought of as surer and quicker than a parliamentary grant; there was talk of confiscating communion plate. Part of the subsidy due in February 1546 was actually collected by anticipation, and the suppression of the chantries was authorised. But what really saved the situation was the conclusion of peace with France in 1546, and the extraordinary yield of the subsidy and fifteenth and tenth payments in that year.<sup>2</sup>

This brings us to one of the most notable characteristics of Henry VIII's government, its capacity for raising direct taxation. Henry VII had done a good deal to get back from the conventionalised and dwindling fifteenth and tenth to a properly proportioned levy corresponding to a reality. The subsidy itself was to become stereotyped under Elizabeth, but in Henry VIII's time it was highly flexible, and it was expanding, from a little more than forty thousand pounds in 1515 to over ninety thousand in 1540, over a hundred and eighty thousand in 1543, and nearly two hundred thousand in 1545.<sup>3</sup> Henry VII's direct taxation had totalled less than two hundred and eighty thousand pounds, in his twenty-four years' reign: in Henry VIII's first thirty years it was about £483,000,<sup>4</sup> and in his last seven years over £650,000. Even if something must be allowed for devalorisation of the coins and some-

<sup>1</sup> Dietz, pp. 154, 155, 175, 177; and cf. p. 387, n. 1 above.

<sup>2</sup> Dietz, pp. 156-8.

<sup>3</sup> The dates are those of the grants: the last, e.g., was paid in April 1546 and April 1547. A fifteenth and tenth remained fairly constant round about £29,000, and two were granted, e.g. in 1545, and collected a few weeks after the two halves of the subsidy. Cf. above, pp. 57, 65.

<sup>4</sup> Cf. p. 136 above. As to indirect taxation, "An improvement in the yield of the port duties in the first part of the reign of Henry VIII was followed, towards the close of the reign, by a considerable decrease: while the revenue continued to decrease in relative value, in consequence of the general advance in the price of all merchandise", owing to the influx of silver from Mexico to Europe, says S. Dowell, *History of Taxation*, 1, p. 178.



thing for intimidation of the payers, it seems impossible to withstand the conclusion that "The nation was stirring with life and prosperity, and taxes which would have dethroned a Yorkist could be paid without grudging, to further the personal ends of a popular king".<sup>1</sup> And the figures I have given do Henry less than justice, for there are to be added contributions from the clergy, not only the perpetual tenth granted in 1534 but also an occasional tithe of the remaining nine tenths, occasional payments which were made in every year from 1540 to Henry's death. There were also contributions levied on the general ground of natural law and national necessity, like the "sums of money after the rate of a fifteenth" which the Londoners had to pay towards the expenses of their fifteen hundred fellow-citizens who in July 1545 were sent to turn the French invaders out of the Isle of Wight.<sup>2</sup>

Then there were forced loans and benevolences, which were in effect direct taxes, especially with the evanescence of Henry VII's distinction, that the former were always repaid. Forced loans, indeed, were dropped, after the unfortunate attempts of 1525 and 1528,<sup>3</sup> till 1542. Then they were revived indeed. Royal commissioners<sup>4</sup> in the various shires were sent lists (compiled from the subsidy books) of persons worth approaching, together with promises under the privy seal to repay the amounts they should lend. Prospective lenders were to be shown the vastness of the king's military expenses and the need that he should keep his own treasure for emergency. The first to be assessed were the commissioners themselves, and

they shall press no man to contribute unless he can spend in lands and offices £50 a year, or is worth in goods £100 at least.<sup>5</sup> The least rate that can conveniently be levied of the hundred is £10 from lands or £6. 13s. 4d. from goods. If any one shows himself stiff in condescending to the same, upon allegation of poverty or other pretence which seems insufficient, they shall use what persuasion they can, and if all will not draw him to some reason and honest consideration of his duty they

<sup>1</sup> Dietz, p. 162: and Appendix table VII.

<sup>2</sup> Wriothesley, *Chronicle*, I, p. 159.

<sup>3</sup> Cf. pp. 50 ff. above.

<sup>4</sup> They got 1½d. in the £ for collection and portage to Edmund Peckham, cofferer of the household (and he got 10s. a day for receiving): *L. and P.* XVII, nos. 194, 189.

<sup>5</sup> No. 194.

shall charge him to keep secret what they have said, note his name and command him to return to his house, and so pass him over in such a silence as he be no empeachment or evil example to the rest. They shall travail with all spiritual persons for like contribution.<sup>1</sup>

The promise to repay in two years was hardly more than an agreed formula of empty courtesy, and even those who had been excused customs dues in view of their lendings were afterwards compelled by parliamentary authority to pay them.<sup>2</sup>

By such means the 1542 loan was made more remunerative than any single collection of a parliamentary tax had ever been, bringing into the treasury £112,229. The "devotion money"<sup>3</sup> in 1543 was a failure, and the very small loan<sup>4</sup> raised in 1544 was partly repaid. Early in 1545 began an attempt to set the king's finances straight by collecting "benevolence money". This was to all intents and purposes a parliamentary subsidy without parliamentary consent, of eightpence in the pound below £20 and a shilling in the pound above.<sup>5</sup> Indeed Henry said that he knew "by experience our people to be so loving towards us that they will as gladly contribute what is necessary by way of benevolence as if it were granted by parliament", and accordingly forbode "troubling them to repair hither, and by our council's advice" required contributions.<sup>6</sup> The commissioners were again recommended to swear the recalcitrant to secrecy and send them home, but this did not mean that they got off scot-free. Alderman Sir William Roach, for instance, was put in the Fleet prison till he bought his liberty, and his brother-alderman Sir Richard Reed fared worse still: because "he would not agree to pay as they set him, he was commanded on pain

<sup>1</sup> *L. and P.* xvii, no. 194, royal instructions to the commissioners for Warwickshire.

<sup>2</sup> 25 H. VIII c. 12, and for all this paragraph, cf. Dietz, pp. 164, 165.

<sup>3</sup> Cf. p. 388 above.

<sup>4</sup> £12,970, Dietz, p. 165, n. 18.

<sup>5</sup> *L. and P.* xx (1), no. 17, the king to the commissioners.

<sup>6</sup> These are the minimum rates according to *L. and P.* xx (2), app. no. 4, but according to Wriothesley, *Chronicle*, i, p. 151, a good witness about London, it "was granted him volente nolente after the rate of 2s. in the £, after the rate as men paid to the king's subsidy". But Reed provides a good example of the capacity of Henry's government to avoid either bearing or exciting malice: in May 1546 he was in Flanders on the financial business of the government, *L. and P.* xxi (1), no. 846.

of death to make him ready to serve the king in his wars in Scotland", and he did in fact serve, until he was taken prisoner<sup>1</sup> and had to ransom himself. This benevolence of 1545 produced just on a hundred and twenty thousand pounds, and probably the "contribution" of 1546 was about equally remunerative, which would mean that in the war period of Henry's last few years more than a million pounds was collected by way of direct taxes.<sup>2</sup>

Nevertheless he left to Edward VI "an empty treasury, a debased currency, depleted estates, and charges vastly increased", besides a debt of £75,000 in Flanders,<sup>3</sup> and he had cut off his successors from certain resources: Edward, indeed, could go on dissolving chantries and debasing the coinage, but not for very long, and in general raids upon the church and the mint had been overdone, could not in future be a considerable resource.

One thing quite clear is that Henry VIII had been able to take money from his subjects on a scale and with an irresponsibility quite unprecedented. This was partly cause and partly effect: any government which is rich enough can do pretty much as it likes, and any government which is powerful enough can tax quite arbitrarily: each of these propositions is almost an identical statement. Henry's richness had no separate existence, at least after his first years: he could not live of his own unless what belonged to his subjects was his: nor could he make it his by force which did not derive from his subjects. He could use one set of them to suppress another, and could pay one set with what he took from another. But after all, the number of people who got much gain out of the monasteries was not immense, whereas every one, except those to whom monasteries were dark satanic mills, must have

<sup>1</sup> Wriothesley, *Chronicle*, I, pp. 151, 153: cf. *L. and P.* xx (1), no. 98, Reed to serve with his men at his own charge under strict military discipline, P.C. to Evers: his exchange for Hume at the end of the year, J. R. Dasent, *Acts of the Privy Council*, I, p. 283.

<sup>2</sup> For all this paragraph, cf. Dietz, pp. 165-7.

<sup>3</sup> Dietz, p. 158: the debt was not overdue and Henry had always kept faith with his foreign creditors, if a little tardily: his first foreign loans had been on the credit of some great London mercantile firm which was guaranteed against loss by the signatures of Wriothesley, Suffolk and other councillors, and the two Greshams: the Antwerp financiers drove hard bargains, and especially took great profits out of loans in kind: cf. Dietz, pp. 167-74.

felt some loss, and it is clear that very many did enjoy a much keener sense of loss than they could have justified. It was a loss, too, very widely and evenly spread both socially and geographically. Even more so was the loss involved in currency manipulation. And if the enormous direct taxation of the end of the reign fell apparently only on the propertied classes, those were precisely the classes whose co-operation was absolutely indispensable to any sixteenth-century administration. Equally, the class that suffered principally from the attack on church property had special advantages of solidarity and expressiveness, and special facilities for claiming support; they belonged to a European society which could explain to docile foreigners how Henry was destroying European society, which could find Englishmen to declare that they cared more for the King of Heaven than for twenty kings, and which could outface the current mystic of loyalty. Each act, and with an especial and clear inevitability each fiscal act, of Henry's government must have aroused resentment among some division of his subjects: but the bulk of his subjects acquiesced in each of his acts, and a vast preponderance of his subjects approved generally his course of action as a whole.

It was not only in the matter of taxation that Henry had his own way most freely and fully in the last years of his reign. That happened also in every branch of government, as will be sufficiently shown by narrating the main incidents in the religious and ministerial history of the reign. The way Henry's reign ended and the point from which Edward's began, what the monarchy was and what could be done by or with other institutions when the monarchy was imperfect, may be a little understood if it is first seen how in his last ten years Henry handled the grandees of England and her religion, her council and her parliament.

In the religious field, the establishment of the English bible<sup>1</sup> was no doubt the feat which was most deeply and permanently to affect the constitution of England in one sense, and even in the specific sense it is not too fanciful to imagine that the English fidelity, in the next three centuries, at least, to case law and judicial interpretation, to government

<sup>1</sup> Cf. above, pp. 114, 300.

by discussion and respect for antiquity, and the English attempts to be comprehensive without being indifferent, received a great, perhaps decisive, reinforcement from the process which made the ultimate criterion for English Christianity an uncodified collection of records and caused the English hierarchy to see infallibility nowhere and probability only in the agreement of the learned. Neither the sovereignty of a Roman pontiff nor the sovereignty of a Genevan logic could well have coexisted with the developing sovereignty<sup>1</sup> of parliament, and any such coexistence would have made that sovereignty intolerably self-confident and pervasive. Hardly less prejudicial to growing sovereignty would have been the exclusive adoption by private enterprise of a book which contained answers to every question; but the English bible was an official institution, in its early days the fanatic had less proprietary right in it than the bishops who patronised and expounded it, or than the church's temporal head, who had imposed it on his people. "Who is there", said George Constantine in 1539,<sup>2</sup> "who is there, almost, that will have a Bible but he must be compelled thereto?"<sup>3</sup>

There had been English translations of the bible or of parts of it before Henry VIII, and even before Wycliffe, but the private possession or circulation of them had been ill-seen and indeed heretical.<sup>4</sup> In 1526 the version of the New Testament<sup>5</sup> prepared abroad by Tyndale

<sup>1</sup> This is not, of course, a proof that it was a good thing it should develop: nor could its development have proceeded very easily if English monarchs had continued to claim the sort of personal infallibility in doctrine implied by, e.g., 34/5 H. VIII c. 1, s. 18.

<sup>2</sup> Quoted by J. Gairdner, *Lollardy and the Reformation*, III, p. vii, from *L. and P.* XIV (2), p. 140.

<sup>3</sup> And he went on, "How loth be our priests to teach the Commandments, the Articles of the Faith, and the *Paternoster* in English? Again, how unwilling be the people to learn it! Yea, they jest at it, calling it the new *Paternoster* and the New Learning". The revocation of the English bible was one of the demands of the Devonshire rebels in 1549.

<sup>4</sup> Possession of a prohibited version had been part of the evidence against Hunne: cf. pp. 112 ff. above. Cf. also *The English Works of Sir T. More*, ed. W. E. Campbell and A. W. Reed, vol. II. Intro. pp. [67] ff., *Dialogue Concerning Tyndale*, pp. 77 ff. and 206 ff., esp. 246-50.

<sup>5</sup> And soon after of parts of the Old: cf. J. Gairdner, *Lollardy and the Reformation*, II, pp. 227, 244; I, p. 311, and *History of the English Church*, pp. 91, 106, 126. And cf. below, p. 512, proclamation against it in 1546. And cf. H. W. Hoare, *Our English Bible*, p. 144 (1526 soon after the holocaust of heretical books outside St Paul's,

began to worry the bishops, and in 1530 the king, after consulting them, prohibited it,<sup>1</sup> and decided that an English publication was, for the time at least, inexpedient, but that a version ought to be prepared. Probably already Coverdale, commissioned by Cromwell, was busy on his version,<sup>2</sup> based mainly on Luther's. In December 1534 the Convocation of Canterbury petitioned the king to allow a new translation to be made and published:<sup>3</sup> in October 1535 Coverdale's work came out. In August 1536 injunctions issued by Cromwell as vicegerent ordered every parish priest to place in his church within the next year one whole bible in Latin and one in English.<sup>4</sup> This order about English bibles was repeated in the injunctions of 1538:<sup>5</sup> "Also it was proclaimed in the Star Chamber at Westminster, the last end of Hilary Term, in the presence of the Lord Chancellor other Lords of the King's Council, with divers Justices of the Peace of divers shires in England, that the

first arrival of Tyndale's New Testament, 1525-8 great success of Wolsey in suppressing it, pp. 148-50 Old Test. 1530-34, 151 Tyndale burnt at Vilvorde 6 Oct. 1536). Cf. B. F. Westcott, pp. 36 ff. for the diffusion and influence of Tyndale's New Testament.

<sup>1</sup> And other heretical books. Hall, II, p. 177, explains the king's motives, and his communing with his counsaile and the prelates, 25 May 1530.

<sup>2</sup> Gardner, *Lollardy and the Reformation*, II, p. 254.

<sup>3</sup> And apparently Gardner himself translated two of the gospels: cf. Gardner, II, p. 267: Cranmer portioned out the Bible to the various bishops to translate: II, pp. 268 ff. A. F. Pollard, *Thomas Cranmer*, p. 96, says Convocation was persuaded by Cranmer. Convocation made a similar petition again in 1536: the publication of Coverdale's edition in 1535 was not licensed, only tolerated: cf. B. F. Westcott, *General View of the History of the English Bible*, p. 63.

<sup>4</sup> There seems to have been no attempt to enforce this: but cf. p. 300 above, p. 451 below.

<sup>5</sup> The priest was also to explain the distinction between those articles of religion which were necessary and those which were only convenient, to see to the teaching of the Lord's Prayer, the Articles, and the Ten Commandments in English, to spend one fortieth of his income on the poor (if he were rich enough), to keep for every £100 per annum an exhibitioner at Oxford or Cambridge: cf. J. Gardner, *History of the English Church*, p. 77. On 25 April 1541 the Privy Council fixed the price of the "great volume" at 10s. unbound, 12s. bound: and next month, at the instance of Ant. Marler (financially interested in Grafton's edition) fixed a date by which every parish was to have one: in March 1542 proclamation forbade any one else to print the Bible (N. H. Nicolas, *Proceedings of the Privy Council*, VII, pp. xl, xli, xlii, xlii). In 1537 (so Archbp. J. Strype, *Memorials of Cranmer*, II, app. xx, dates it, though I do not understand, even as a joke, Grafton's request at that date that every abbey should be compelled to take six bibles) Grafton asked Cromwell that all bibles but his should be banned, or failing that, that every curate should be compelled to have one of his. For the proclamation of May 1541, cf. below, pp. 445, 451.

said justices should cause the Bible and Testament in England to be had in their shires. . . ."<sup>1</sup> By that time also various priests were saying the mass and singing the *Te Deum* in English.<sup>2</sup>

Already in August 1537 a new English bible had appeared, which Cranmer liked better than any other and wanted published "until such time that we the bishops shall set forth a better translation, which I think will not be till a day after Doomsday". This version, a conflation of Tyndale's and Coverdale's,<sup>3</sup> was accordingly licensed,<sup>4</sup> and became the basis of all subsequent authoritative versions. In November 1539 Cromwell was authorised<sup>5</sup> to prevent the printing of any English bible which did not meet with his approval. Nor were bible study and discussion left by any means altogether free: by a proclamation<sup>6</sup> of April 1539 no one except beneficed persons or university graduates was to expound the bible or to read it aloud in church: in opening the next parliament (1540) the vicegerent spoke of the king's determination to prevent abuses and punish irreverent handling of the bible: and throughout, Tyndale's version was always discountenanced, though the authorised one was largely based on it, and any edition with annotations and comments.<sup>7</sup> In February 1542 both houses of convocation,

<sup>1</sup> Wriothlesley, I, p. 74.

<sup>2</sup> Wriothlesley, I, p. 83.

<sup>3</sup> Cf. Gairdner, II, p. 281: under the pseudonym Thomas Matthew, apparently for John Rogers, later the first of Mary's martyrs.

<sup>4</sup> Its principal, revised, edition (April 1539), the "Great Bible" was partially printed at Paris under supervision of Grafton and Coverdale: Westcott calls this edition "Cromwell's sole enterprise", having already remarked that "Cromwell's zeal for the circulation of the vernacular scriptures could not be satisfied with the license which he had obtained for the Bibles of Coverdale and Matthew" (*English Bible*, pp. 73, 77): see also Gairdner, II, p. 285, and *English Church*, p. 203. Coverdale's 2nd edition, 1537, also announced itself as "with the King's most gracious license", Hoare, p. 173.

<sup>5</sup> For five years, *L. and P.* XIV (2), no. 516.

<sup>6</sup> Gairdner, II, p. 287, referring to J. Strype, *Memorials*, I (2), p. 435: the proclamation was in anticipation of the Act of Six Articles and purported to be "by authority of parliament".

<sup>7</sup> Cf. e.g. 34/5 H. VIII c. 1: and *L. and P.* XVII, no. 177, proclamation in 1542 against the same books as in 1546, and all bibles except that finished Nov. 1540 and printed by Grafton, which edition described itself as overseen and perused by Tunstall and another bishop: and Wriothlesley, I, p. 168, the proclamation (July 1546) against heretical books, including Tyndale's and Coverdale's translations. But "Matthew's" bible, itself, contained a collection of common-places of a highly protestant tendency: cf. Gairdner, II, p. 294: this was omitted in the Great Bible of 1539 and the edition of 1540.

after a royal request to consider the subject, declared themselves dissatisfied with the translation of the Great Bible, and appointed committees for revising it: but a few days later they were instructed (by Henry, through Cranmer<sup>1</sup>) to desist, as the work was to be entrusted to the universities, and in fact the Great Bible was left in possession of the field.<sup>2</sup> Yet it was a dangerous engine, to be handled only by the trustworthy, and so in 1543 statute very elaborately arranged.<sup>3</sup>

So the English bible was established, and it was not likely that the restrictions on the reading of it would for very long be very successfully enforced. Nor much more likely, indeed, that, once Tyndale's version was in print, the circulation of the scriptures in English could anyhow have been prevented. It was none the less important that the English bible had in fact been established by the temporal head, with whatever restrictions, and that the bibles prohibited had been prohibited on grounds of scholarship, mistranslation, and bad editing, so that when after the Marian reaction the attempt should be recommenced to make all government in England English, the appeal of the first ecclesiastical governors could be easily to the scriptures, erudition and discussion should be methods from traversing which they were estopped, yet they should be able to compete with the most individualist of dissidents in loyalty to the sacred books though they might claim to be catholic and apostolic.

The series of formularies, and the theological variations of Henry's later government, and their relation to foreign policy and to party controversy, are matters that require what minimum of attention may suffice to indicate the character of the royal supremacy, its connection with other parts of government, and its legacy to succeeding sovereigns. And the first to be considered is the *Institution of a Christian Man* (Sept. 1537).

This repeated the doctrine of the Ten Articles,<sup>4</sup> with the addition that the seven traditional sacraments<sup>5</sup> were restored to that title, and

<sup>1</sup> Cf. below, p. 479.

<sup>2</sup> Gairdner, II, pp. 295 ff.

<sup>3</sup> 34/5 H. VIII c. 1, cf. p. 483 below.

<sup>4</sup> Cf. p. 298 above.

<sup>5</sup> That of holy orders was explained to empower (a) rebuke and excommunication, (b) admission of properly nominated persons to cure of souls, (c) regulation of observance of holy days and fasting days: cf. Gairdner, II, p. 236.



not only baptism, penance, and the eucharist. The book had been composed by the bishops: they had been assembled and set to work by the king's vicegerent, and the publication of their work was allowed by the king, as indeed they admitted to be absolutely necessary.<sup>1</sup> But he had not time, he said, to examine it properly and therefore trusted to his prelates, who for the rest were to see that it was read in all parish churches.<sup>2</sup>

Henry's ecclesiastical policy was not a matter only for himself and his bishops and his people. In 1537 he was laughing at Paul III's projected general council,<sup>3</sup> to the applause of John Frederic of Saxony and Philip of Hesse.<sup>4</sup> In the middle of 1538 a ten years' truce was arranged between Charles and Francis by the pope,<sup>5</sup> and the pope was nerved, the last prick that started him being Henry's outrageous treatment of Thomas à Becket,<sup>6</sup> to take up again his thunderbolts against a schismatic king. The sentence damning and excommunicating<sup>7</sup> Henry and his accomplices had been suspended since 1535, but now it was revived, Henry deposed, his kingdom laid under interdict, trade cut off, subjects released from their allegiance, all princes and military persons required to make war upon him:<sup>8</sup> after his treatment of St Thomas the bull could be no longer left dormant but was to be published in Scotland, Ireland, Tournay and Dunkirk, and to be made effective.<sup>9</sup> It does not seem clear that the pope's authority sufficed even for publication, and certainly not all the offers of the English bear's skin to whatever royal hunters might heed the papal horn, nor all the persuasions of Beaton in Scotland and of Pole at Toledo,<sup>10</sup> produced any very resolute threat to Henry's throne. Not the bull, but the

<sup>1</sup> Gairdner, II, p. 324. Gardiner's name was put to the book, although he was in France as ambassador: he says that he protested to the king: cf. Muller, p. 69.

<sup>2</sup> Gairdner, II, p. 328.

<sup>3</sup> *L. and P.* XII (1), no. 1310.

<sup>4</sup> XII (2), nos. 1088, 1089.

<sup>5</sup> XIII (2), Index, *Peace Negotiations*.

<sup>6</sup> Gairdner, II, pp. 151 ff., his tomb was pillaged in Sept. 1538.

<sup>7</sup> Cf. above, pp. 194, 204, 209, 213, 230, 255, 263, 267, 365.

<sup>8</sup> Cf. pp. 268, 350 n. 5 above, p. 420 below.

<sup>9</sup> Cf. Burnet, I, p. 392; IV, pp. 318-34.

<sup>10</sup> Cf. Gairdner, II, p. 155, and XIII (a), no. 950: Charles was preoccupied with the Turk.

general tendency of which it was the specific thrust, did produce further episcopal definitions in England of what was a prince's authority and what a bishop's, and how "Christ did expressly forbid his apostles or their successors to take to themselves the power of the sword, or the authority of kings":<sup>1</sup> how broad his conception was of the authority of kings Henry showed in his proclamation (16 Nov. 1538)<sup>2</sup> unsainting Becket, "as he was really a rebel who fled the realm to France and to the bishop of Rome to procure the abrogation of wholesome laws", a proclamation which also forbade the unlicensed printing or importing of books, the marriage of clergy, and any disputation about the Sacrament of the Altar, and commanded certain ceremonies to be continued till further order and all clerics "to preach the word of God, showing the difference between things commanded by him and ceremonies used in the Church". There was a similar genesis, no doubt, to the entertainment of three German divines who spent June and July 1538 in England trying to find a formula of theological agreement but failing because of Henry's devotion to clerical celibacy,<sup>3</sup> communion in one kind, and private masses.<sup>4</sup> On these three points the Germans expected a written argumentative answer from the English bishops, but both the bishops and the king thought it was better written by Henry.<sup>5</sup>

Not unconnected, also, with the state of the continent and the stirrings of Rome in 1538 were the executions in that year, of the Anabaptists, John Lambert, the Poles and Nevilles. Henry meant to have no avoidable shadows on his orthodoxy, and no expectant

<sup>1</sup> Burnet, I, p. 394.

<sup>2</sup> *L. and P.* XIII (2), no. 848.

<sup>3</sup> He had various reasons: on 19 April 1541, when the French ambassador was explaining to him how well things were going at Ratisbon, and what hopes there were that the three essential points might be compromised, the Protestants allowing the expediency of a head of the Church at Rome, and receiving permission for clerical marriage and the sacrament in both kinds, Henry "discoursed of the evil which might come of granting these points; and, besides saying ill of the Pope, mentioned the inconvenient results of the marriage of priests, and, among others, that they would ally themselves with the greatest and then domineer over kings and be lords of the world as well spiritual and temporal, adding, with the look of an angry man afraid of consequences, that these things were too hard for him to digest, and that he would die sooner than consent to them, and specially that ecclesiastical property should be made hereditary": *L. and P.* XVI, no. 737.

<sup>4</sup> XIII (1), p. xxxiv, (2) p. xxii, nos. 37, 165.

<sup>5</sup> Printed by Burnet, *History of the Reformation*, IV, p. 373.

reversionary, least of all one related or agreeable to the traitor Reginald: German anabaptists were the best of all victims to orthodoxy, sacrifices equally acceptable to Lutheranism,<sup>1</sup> to Romanism, and to patriotism. So on 1 October 1538 Cranmer and eight others were commissioned to receive back into the church such anabaptists as renounced their error, to hand over for punishment the persistent, and to destroy all books of that detestable sect:<sup>2</sup> on 22 November 1538, by proclamation, the Supreme Head in Earth under God of the Church of England ordered all strangers who had lately rebaptised themselves, who deny that the Sacrament of the Altar is the very body of our Lord, to leave the realm in twelve days, whether they had recanted or not:<sup>3</sup> and in less than twelve days several of them had been burnt.<sup>4</sup>

Just before them had perished in the same way a certain Lambert or Nicholson.<sup>5</sup> His trial was the occasion for a very special display of royal right-mindedness. Charged with heresy about the mass, he was to "dispute his cause concerning the sacrament against eight doctors in the king's presence".<sup>6</sup> Actually there were present not only the king but also "most part of the lords temporal and spiritual, bishops, doctors, judges, serjeants at law, the mayor and aldermen of London, and others": and the king's majesty was not merely present but "reasoned with him in person, sundry times confounding him, so that he alone would have been sufficient to confute a thousand such. . . and no one will be so bold hereafter to attempt the like cause":<sup>7</sup> but Lambert was stubborn, and went to the stake.<sup>8</sup> Cromwell was careful to inform the English ambassador at the imperial court "how princely, with how excellent gravity and inestimable majesty his highness exercised there the very office of a supreme head".<sup>8</sup>

In the same letter Cromwell told Wyatt "how the marquis of Exeter

<sup>1</sup> *L. and P.* XIII (2), no. 427, Sept. 25, Henry warned against anabaptists by Saxony and Hesse (in a letter which was translated for him by Morison).

<sup>2</sup> XIII (2), no. 498.

<sup>3</sup> XIII (2), no. 890.

<sup>4</sup> Wriothesley, I, p. 90.

<sup>5</sup> *L. and P.* XIII (2), no. 899, 23 Nov. 1538; Wriothesley, I, p. 89; Hall.

<sup>6</sup> XIII (2), no. 834.

<sup>7</sup> No. 851, John Husee to Lord Lisle, 16 Nov. 1538; cf. no. 852, Sir Thomas Elyot on Henry's "divine influence or spark of divinity" on this occasion.

<sup>8</sup> No. 924.

and lord Montague are committed to the Tower for horrible treasons, known not by light suspicion but by proofs and confessions". These things all hung together—monasteries, Pilgrimage of Grace, talk of new bodyguard,<sup>1</sup> proclamations about religion and discussion,<sup>2</sup> foreign policy, and now the extermination of Poles<sup>3</sup> and Courtenays.<sup>4</sup>

Poles and Courtenays and Nevilles had long grumbled at the way things were going and wished for a change,<sup>5</sup> and had been in communication with the cardinal. Most of this was quite harmless, and perhaps all of it was outside any reasonable law. But it was quite enough to work their ruin when Henry VIII had resolved to wield his treason laws against them. Certainly the marquess of Exeter was rather indiscreet in conversation, and Lord Montague very indiscreet, and Sir Edward Neville indiscreet in song, and Sir Geoffrey Pole a fool. Reginald seems to have given him no more traitorous advice than not to be of Henry's opinion on ecclesiastical matters, and to "tarry in England and hold up yea and nay there".<sup>6</sup> The countess of Salisbury bullied her servants and tenants for holding opinions and reading books which the king had licensed, and took advantage of the confessional to detect them:<sup>7</sup> it was suspicious reports about her household that caused the arrest (June 1538) first of Hugh Holland (who had carried letters to the cardinal) and then, towards the end of August, of Sir Geoffrey Pole.

With discomfort, fatigue, and fear of torture, Geoffrey's nerve was soon broken, and he tried to save himself from doing worse by committing suicide: but even there he was unlucky or unskilful: "and yet forasmuch as blood came after the wound, Geoffrey began at the last

<sup>1</sup> *L. and P.* XIII (2), p. xliii, with references scattered all over 1538: this seems never to have come to anything considerable, cf. Wriothesley, I, p. 112, and Hall, II, p. 294, fifty young gentlemen who were "made spears" and given "£5 apiece out of the Court of Augmentation". Cf. above, pp. 348, 367, below, p. 421.

<sup>2</sup> 16 Nov.: cf. p. 396 above.

<sup>3</sup> Sons of Lady Salisbury daughter of Edward IV. Cf. XIII (2), nos. 950 (30 Nov. 1538), 1110, for Reg. Pole's efforts to excite the empire and Spain against England.

<sup>4</sup> Exeter was son of Edward IV's daughter Catharine.

<sup>5</sup> Cf. Dodds, II, pp. 284 ff.

<sup>6</sup> *L. and P.* XIII (2), no. 804: Reginald said he would trample on mother or brother if they went over to Henry's opinion.

<sup>7</sup> Dodds, II, p. 303.

to fear God, to fear hell, . . . to wish he had opened all together".<sup>1</sup> At any rate, he became an easy subject for interrogation, and began to say things that would be enough to cost the heads first of himself and then of all his friends and relatives.<sup>2</sup> On November 4 Montague and Exeter were committed, and soon after a dozen others: against all there was evidence enough of conversation which could be brought within the new treasons act: there was no proof of conspiracy, and probably had been nothing much more definite than a strong feeling that it would be very nice to have a change, Mary instead of Henry on the throne, or perhaps Exeter, Reginald back in England (perhaps married to Mary), some help from the emperor if necessary.<sup>3</sup> Exeter and Montague were found guilty by the peers, with Audley as lord steward: half a dozen others, mostly pleading guilty, were condemned in king's bench: Geoffrey Pole was pardoned,<sup>4</sup> but all the rest were executed. Lady Salisbury was closely examined, and kept in custody.

<sup>1</sup> According to Morison, E iiiii.

<sup>2</sup> *L. and P.* XIII (2), nos. 695 (2), 804.

<sup>3</sup> Cf. Dodds, II, p. 311, and round that page for all this part.

<sup>4</sup> And tried to suffocate himself with a cushion: Dodds, II, p. 315.

## CHAPTER XX

### CROMWELL'S LAST PARLIAMENT

This crushing of the section of the old aristocracy which came from Plantagenet and which hankered after Rome seems to have excited opinion abroad much more than at home.<sup>1</sup> The advisability of giving as little occasion for scandal as possible was certainly one of the reasons why Henry did not content himself with his merely administrative action against heretics but proceeded to new statutory onslaughts upon them. "This parliament", wrote John Husee to Lord Lisle on 4 May 1539, "there shall be a thorough unity and uniformity established for the reformation of the church of this realm."<sup>2</sup> That was the note of it in the expectation of a well-informed man of business. Cromwell<sup>3</sup> had other projects as well—some "device" for the poor people, armament,<sup>4</sup> attainder of Exeter, Lady Salisbury, Reginald Pole<sup>5</sup>, and others,<sup>6</sup> perhaps

<sup>1</sup> Though the French ambassador reported the English to be "inconceivably discontented": ambassadorial reports on such subjects are never very trustworthy. Castillon also thought it a good opportunity for Francis, Charles and James to partition Henry's dominions: or at the very least for Francis to shake off his pensions: *L. and P.* XIII (2), nos. 1162, 1163.

<sup>2</sup> XIV (1), no. 922.

<sup>3</sup> Cf. his letters to Henry, 17 March 1539, *L. and P.* XIV (i), no. 538: "I and others of your grace's counsell here do study and employ ourselves daily upon those affairs that concern your grace's parliament. . .". Merriman, I, p. 253, says "the Parliament of 1539 was undoubtedly his masterpiece" and refers to XIV (1), nos. 520, 573, both letters from Southampton to Cromwell, 14 and 20 March 1539: no. 520, he had spoken at Guildford of the cost of representation and said if they followed his advice they would avoid it for he would provide able men, to which they replied that Dan. Modge wanted one seat but Southampton might nominate to the other. For the knights of Sussex, he was hopeful of arranging, and he could manage Portsmouth, Midhurst, and Southampton, but forbore to meddle with Farnham "my lord of Winchester's town": no. 573, p. 224, would have a try at Farnham, though not hopeful, and would manage Surrey.

<sup>4</sup> For its urgency cf. XIV (1), pp. v, xi, xv, xxiii, xxv, xxvi, xxx.

<sup>5</sup> These were attainted, and their friends, and all who had suffered after the Pilgrimage: the most important evidence against lady Salisbury was a vest found among her linen, with on one side the arms of England garlanded in pansies (for Pole) and marigolds (for Mary) and on the other the Five Wounds: cf. *L.J.* I, p. 107, and *L. and P.* XIV (1), no. 980. And cf. p. 418 below.

<sup>6</sup> No. 655.

the limiting of land purchase by merchants.<sup>1</sup> Perhaps defence was what seemed most urgent to the country at large, where general musters had recently been taken and all Henry's subjects had seemed gratifyingly willing to "spend life land and goods to serve him if any chance should happen".<sup>2</sup> Anyway, Husee was right, and religious uniformity was the dominant note of this parliament.

If Cromwell had a parliamentary platform, he was modern also in his attempts to manage the general election. For Hampshire and Surrey he was in communication with the earl of Southampton and Lord St John and Wriothesley and Kingsmill<sup>3</sup> and Sir Roger Copley:<sup>4</sup> in Hampshire he had the bishop<sup>5</sup> as a rival, but Cromwell's candidates were successful by record majorities. In Cornwall, Sir Wm Godolphin was helping.<sup>6</sup> Kingsmill might be useful as member somewhere where he was not sheriff: why not at Ludgershall? Lisle<sup>7</sup> was to proceed to the election of burgesses for Calais. Sir Edmund Knyvet offered his services for the Norfolk election,<sup>8</sup> but learning that "the King wishes Mr Southwell and Mr Wyndam elected for this Parliament"<sup>9</sup> turned rather tiresome,<sup>10</sup> though unable to keep the government candidates out.

And doubtless there are other cases where Cromwell influenced this general election without leaving any trace on the records. But it is impossible to guess how many, and permissible to believe not very many, and this was the most parliamentary minister in our history

<sup>1</sup> About fifty: cf. *L. and P.* xiv (1), p. 404.

<sup>2</sup> No. 749, this is the duke of Suffolk writing from Lincolnshire, but the zeal was universal: cf. p. xxxiv.

<sup>3</sup> Sheriff: cf. xiv (1), nos. 520, 564, 573.

<sup>4</sup> Who owned Gatton, and begged that whoever represented it might take no wages "because there is but one house in the town to be any help to the same": no. 645.

<sup>5</sup> Gardiner, cf. no. 634: so we shall not take Gardiner quite uncritically when he writes to Somerset on 20 Nov. 1547, "If it should be of any man through policy to keep me from the Parliament, it were good to be remembered whether mine absence from the upper house, with the absence of those I have used to name in the nether house, will not engender more cause of objection, if opportunity serve hereafter, than my presence with such as I should appoint were there": *Muller, Letters*, p. 424, *Foxe* (ed. Pratt), vi, p. 53.

<sup>6</sup> No. 598.

<sup>7</sup> Deputy at Calais: no. 792.

<sup>8</sup> No. 672.

<sup>9</sup> No. 706.

<sup>10</sup> No. 800.

before Danby, and throughout Henry's reign (or the whole period before Danby, for that matter) this election was unique in that Cromwell was uniquely qualified to act for the government. Even so, he could be opposed by Gardiner,<sup>1</sup> there was no governmental unanimity: Calais, which might seem likely to be as regimental and calculable as Gibraltar would be nowadays, sent Thomas Broke, who was to oppose the government on its most vital and controversial measure—"spoke in the Parliament House about the Sacrament so that most of the House were weary of his oration. Mr Comptroller of the King's house taunted him so that I think he will have little mind to reason the matter again there. I am sorry to hear the infamy that is spread of him". So Husee reported<sup>2</sup> to Lisle, and the taunts were not to be all Broke was to undergo by way of lesson in the limits of debate. For the commander in Calais sent one of his agents in London to discuss the matter with Gardiner, and this was the report:<sup>3</sup>

Touching the motion made by him in Parliament, against the Sacrament; my lord [of Winchester] says that he, being a burgess there, might well declare his opinion. Nevertheless, he was then immediately and fully answered by Sir Wm Kyngston, comptroller of the King's household, who said that if he doubted about the Sacrament of the Altar, he should show his opinion to the King's Council after 12 July next,<sup>4</sup> and then he would receive an answer to every article. As to further examination, whether his motion in Parliament proceeded of his own mind or of the instigation of others; my lord says there is no doubt he will be more strictly examined than he has been before his departure out of the city, both touching his motion and his supporters.<sup>5</sup>

It was not a modern parliament nor was its election modern: but the methods of its composition and management do not seem scandalous,

<sup>1</sup> Cf. above, p. 404, n. 5.

<sup>2</sup> *L. and P.* no. 1108, 13 June 1539.

<sup>3</sup> No. 1152, 24 June 1539.

<sup>4</sup> When the Six Articles Act came into force.

<sup>5</sup> There seem to have been other members in this parliament who required the curb: cf. xv, no. 697, Marillac to Montmorency, 21 May 1540, on the fining and imprisonment of a rich London merchant, Farmer, nominally for kindness to a papistical chaplain, really because "the year past at the Parliament he spoke too boldly in prejudice of this King's rights and prerogatives. Two other burgesses acted more cunningly; for having secretly paid their debts, they have quietly left the Kingdom with all their goods to the value of 50,000 crowns". In the same letter Marillac reported Lisle's arrest—"commonly said he is accused of secret intelligence with Cardinal Pole": cf. below, p. 452.



nor to have made it the dependable tool of a minister, nor even the mere obedient servant of the king.<sup>1</sup>

Its first business, after merely formal preliminaries, was to hear a speech from the chancellor explaining how the royal majesty yearned above all things for the extirpation of diversity of opinion about the Christian religion, and how he recommended them, for the sake of expedition, to appoint a small committee to examine and report on the subject.<sup>2</sup> Accordingly, the two archbishops were named, and the bishops of Durham, Bangor, Ely, Bath, Worcester, and Carlisle,<sup>3</sup> with the Lieutenant in Spirituals as chairman. It was not the first or the last occasion on which an attempt to get impartiality by appointing a committee of both parties has proved vain: the committee produced nothing, and on 16 May 1539 the duke of Norfolk declared this fact, and his doubts whether they ever would come to any agreement, and his advice that "these Six Articles following be examined in full parliament".<sup>4</sup> Thus they might get agreement on the main points, and then they should make a statute penalising violators of that agreement.

The agreement was not easily arrived at. "There is great hold among the bishops", wrote Husee on May 21, "for the establishment of the blessed sacrament of the altar. The lords have sitten daily in council upon the same, and the king's highness hath been with them sundry times in person."<sup>5</sup> One of the lords<sup>6</sup> wrote more fully to the same effect:

never prince showed himself so wise a man, so well learned, and so catholic, as the king hath done in this parliament. . . we shall have an act of parliament so spiritual that I think none shall dare say, in the blessed sacrament of the altar doth remain either bread or wine after the consecration; nor that a priest may have a wife; nor that it is necessary to receive our Maker *sub utraque specie*; nor that private masses should not be used as they have been; nor that it is not necessary to have auricular confession. And notwithstanding my lord of Canterbury, my lord of Ely, my lord of Salisbury, my lords of Winchester

<sup>1</sup> Cf. below, pp. 413 ff.

<sup>2</sup> *L.J.* 1, p. 150.

<sup>3</sup> Tunstal, Salcot, Goodrich, Clerk, Latimer, and Aldridge.

<sup>4</sup> *L.J.* 1, p. 109.

<sup>5</sup> *L. and P.* XIV (1), no. 1003.

<sup>6</sup> As Gairdner guessed, no doubt rightly; XIV (1), p. xlv: Gairdner puts the date at about May 30.

Rochester and St Davids, defended the contrary long time, yet finally his highness confounded them all with God's learning.... We of the temporalty have been all of one opinion....<sup>1</sup>

What they thought was important, no doubt, but no weight was laid on it. On May 30 the lord chancellor declared that "since not only the spiritual lords but also the king's majesty"<sup>2</sup> after much study and labour on the articles were now agreed about them, therefore it was the royal will for a penal statute to be made coercing subjects to conformity: "but the form of punishing such ill-doers his Majesty leaves to the lords". They, however, preferred that anything like initiative in such a connection should remain with bishops and king, and accordingly appointed two committees,<sup>3</sup> to draft rival forms for a penal statute, which should be presented to the king next Sunday. On June 7 the chancellor introduced a bill to punish infringements of "the determination established in the preceding articles", and it was read once: on the 9th it was read again, on the 10th a third time, and handed to the attorney- and solicitor-general for transmittal to the commons: on the 23rd it was handed to the chancellor:<sup>4</sup> on the afternoon of the 28th it was finally passed, with the other acts of the session, in the king's presence.

Convocation was, as usual, sitting along with parliament, and seems to have discussed a petition to the king of a tenor different from the Six Articles, especially on the subject of clerical marriage.<sup>5</sup> But on June 2 six questions, corresponding to the Articles, were put to Convocation, and received the right answers—that in the Sacrament "is present really the natural body and blood of our Saviour"; that communion in both kinds is not necessary to salvation; that priests may

<sup>1</sup> No. 1040, and p. xliv.

<sup>2</sup> Cf. Husee to Lady Lisle, 21 May 1539, XIV (1), no. 1004, good hope that an act will be passed about the Sacrament, "the King has taken daily pains about it himself, and was several times earnest with his Council to decide it. It will be the wholesomest act ever passed".

<sup>3</sup> Canterbury, Ely, and St David's, with Dr Peter: York, Durham, and Winchester, with Dr Tregonwell. For all this paragraph cf. *L.J.* 1, pp. 113, 116, 117.

<sup>4</sup> And the next day a hasty amendment, of small importance, was agreed to by both houses: *L.J.* 1, p. 122. "A certain schedule" was added on the 23rd and 24th: p. 124.

<sup>5</sup> Cf. *L. and P.* XIV (1), no. 971; Burnet, IV, p. 298.

not marry; that vows of chastity ought to be kept; that private masses and auricular confession are expedient.<sup>1</sup> In the lower house there were but two dissentients, the rest were "content to obey and approve all such order and determination as is already made or shall be made by the king and the bishops". The upper house was not so unanimous, or pusillanimous: half a dozen thought clerics might marry: two<sup>2</sup> thought the sacrament should be administered under both kinds, and one<sup>3</sup> was uncertain.

The operative act<sup>4</sup> was an act of parliament, and it began by recalling the royal supremacy, the royal initiative in summoning parliament and convocation, and the royal condescension in coming into his said high court of parliament and counsaile, and there, like a prince of most high prudence and no less learning, opening and declaring many things of high learning and great knowledge touching the said articles: but it put the assent of learned men of the clergy in their convocation, as well as the lords spiritual, as near to the enacting words as it could, and it put bishops in the forefront of those who were to enforce the act. The act was the act of the king in parliament for suppressing diversity of religious opinion by materially punishing those who held the wrong sorts: but it was not the king or parliament that made the wrong sorts wrong, and it was not clear that they would have declared them so if they had not been fortified by bishops and clergy, and by prescription. To deny transubstantiation was heresy, which incurred loss of all property and death by burning. Of any of the five other articles one denial involved the loss of liberty and property, a second denial was felony, to be punished with death.

Henry had still eight years to live, and with such a scourge as this he might have driven out or under all the Lollardy and Lutheranism that were stirring and swelling in England. Interest and inclination

<sup>1</sup> Wilkins, III, p. 845 (referred to in *L. and P.* XIV (1), no. 1063).

<sup>2</sup> Canterbury and St David's; for all this paragraph cf. XIV (1), no. 1065.

<sup>3</sup> The abbot of Westminster.

<sup>4</sup> 31 H. VIII c. 14. Cf. *L. and P.* XIV (1), no. 868, draft of proclamation to be issued by authority of parliament against diversity of opinion, corrected in the royal hand, which appears also on draft bills for more bishops and for the Six Articles.

alike made him hate heresy, and yet he was to prove no very energetic wielder of his six-stringed whip. There was zeal enough in London,<sup>1</sup> where

“the first quest for the inquiry of the offenders of the said statute sat at a church called Becket’s House, now named the Mercers’ Chapel, the said quest being of purpose selected and picked out among all the rest of the inhabitants of the city, that none might thereof be admitted”

which had read scripture or favoured readers or preachers of it: accordingly

“they thought it not only sufficient to inquire of the offenders of the said statute but also by their fine wits and willing minds they invented to inquire of certain branches of the same statute, as they termed it, which was, not only to inquire who spake against masses, but who they were that seldom came unto them: . . . who held not up their hands at sacring time and knocked not on their breasts: . . . who came seldom to the church, who took no holy bread nor holy water, who read the bible in the church, or in communication contemned priests, or images in the churches, &c. :” so “that in fourteen days’ space there was not a preacher nor other person in the city of name, which had spoken against the supremacy of the bishop of Rome, but he was wrapped in the six articles, insomuch as they indicted and presented of suspicion to the number of five hundred persons and above. . . .”

Henry certainly did not desire the destruction of the five hundred Londoners most conspicuous for anti-papalism: whether moved by this reason or by the persuasions of Cranmer, Cromwell, Suffolk, and Audley,<sup>2</sup> the king pardoned the whole five hundred. Cranmer himself was not unaffected by the statute: Henry kept its pressure on him as light as possible, but it forced him to send away his wife. The pressure was much heavier on Latimer and Shaxton, who two days after the making of the statute resigned their bishoprics,<sup>3</sup> and for something over a year after that were kept in custody.<sup>4</sup> Apart from this the statute’s effectiveness seems to have been rather as a boggy than as an engine.<sup>5</sup>

<sup>1</sup> The authority is Hall, II, p. 285.

<sup>2</sup> Burnet, I, p. 427.

<sup>3</sup> 1 Aug. 1539: apparently Shaxton had been kept from the earlier sittings of parliament at first by medical considerations, then by the council’s orders on royal authority: cf. *L. and P.* XIV (1), no. 1157.

<sup>4</sup> *D.N.B.*

<sup>5</sup> Cf. S. R. Maitland, *Essays on the Reformation*, pp. 256 ff.

In July 1540 Henry "ordered that no further persecution should take place for religion, and that those in prison should be set at liberty on finding security for their appearance when called for".<sup>1</sup> In January 1541 Bonner<sup>2</sup> and his chancellor were commissioned to receive the oaths of the city authorities charged with the execution of the statute,<sup>3</sup> and a couple of hundred suspects were rapidly collected:<sup>4</sup> one young man was executed,<sup>5</sup> and there were two or three imprisonments, but the lord chancellor issued from the star chamber an order releasing the rest on bond to reappear, which was never exacted.<sup>6</sup>

The last "persecution" under the Six Articles was in July 1543, when four Windsor men were condemned for heresy, and all burnt except Marbeck the musician, who was pardoned.

The harmlessness of the first of these "persecutions" and the long interval before the second were perhaps due to the influence of Cromwell: that also defeated the first attempt (1539) to use Henry's resharpened orthodoxy for the destruction of Cranmer, who had at the king's request written out his arguments against the Six Articles, in a paper which fell into unfriendly hands. The two other "persecutions" came after Cromwell had been removed, and so did three more attempts<sup>7</sup> to ruin Cranmer on heresy charges, one made by the prebendaries of his own cathedral in 1543,<sup>8</sup> one made in the house of commons by Gostwick<sup>9</sup> probably in 1544, and one in the council in 1545.

<sup>1</sup> *L. and P.* xvi, no. 578, letter from Rd. Hilles to Hy. Bullinger, reprinted from the Parker Society's *Zurich Letters*, I, p. 200.

<sup>2</sup> In Sept. 1539 he had succeeded as Bishop of London: a year before he had been writing to Cromwell (*L. and P.* xiii (2), no. 269, 2 Sept. 1538) with great thanks for his benefits and great complaints of Wyatt for being, among other things, too papistical.

<sup>3</sup> xviii (2), p. xxxv, referring to xvi, no. 494.

<sup>4</sup> Dixon, *History of the Church of England*, II, p. 264.

<sup>5</sup> Rd. Mekins, for maintaining consubstantiation, xviii (2), p. xxxv. Cf. Hall, II, p. 311; Gairdner, II, p. 315; Foxe (*Catley*), v, p. 451; Wriothesley, p. 126; and p. 453 below.

<sup>6</sup> Dixon, II, pp. 268, 269, a few London priests made to recant, and in the country half a dozen sacramentaries burned.

<sup>7</sup> Cf. A. F. Pollard, *Thomas Cranmer*, pp. 153 ff.: and especially Cranmer's secretary R. Morice in *Narratives of the Reformation*, pp. 251 ff.

<sup>8</sup> *L. and P.* xviii (2), no. 291.

<sup>9</sup> First treasurer of the Court of First-Fruits and Tenth, cf. above, p. 248, n. 3 (where his name is spelt Gostwike).

The council, in the last year or two of Cromwell's time, had not changed in any very noticeable manner. At the beginning of 1538 the number of real effective councillors seems to have been a dozen:<sup>1</sup> the press of business did not diminish,<sup>2</sup> nor the practice of conciliar negotiation with foreign representatives,<sup>3</sup> nor supervision over local councils,<sup>4</sup> nor control of grandees<sup>5</sup> and of opinion<sup>6</sup> and of disordered localities,<sup>7</sup> nor the pre-eminence of Cromwell,<sup>8</sup> though the Six Articles were hardly in his line, as must have been guessed, by Lord Morley, for instance, when he sent him Machiavelli's *Florentine History*, recommending it to the king, and added "*De Principe* is surely a good thing for your Lordship and for our Sovereign Lord in Council".<sup>9</sup> The professional councillors, lawyers and administrators, continued to be distinguished from the councillors at large,<sup>10</sup> and perhaps the "privy" council itself was being, not for the first time, supplemented, almost supplanted, by an innermost ring, the king with Cromwell and one or two others: whatever was concluded in the privy council, said the

<sup>1</sup> Cf. *L. and P.* XIII (1), no. 1.

<sup>2</sup> Nos. 659, 712, 953, 1015, 1149; XIII (2), nos. 446, 605; XIV (1), no. 381.

<sup>3</sup> XIII (1), nos. 659, 712, 917, 995, 1149.

<sup>4</sup> XIII (1), nos. 624, 941, 1428; XV, nos. 85, 95, 128, 191: cf. also XIII (2), no. 34, 4 Aug. 1538, Norfolk and Sir R. Townsend to Thomas Cromwell about the Observant Ant. Browne and the Supremacy, and his confession: before sentence Norfolk had him examined by the bishop in the presence of Townsend, "who is only of the King's Council in these parts", i.e. Norfolk.

<sup>5</sup> Nos. 270 and 839 (Derby); XIV (1), no. 307 (Lisle).

<sup>6</sup> Cf. XIII (2), no. 848, 16 Nov. 1538, proclamation against heretical books: none to sell any "books of Scripture" without the supervision of the king, one of his council, or a bishop. And cf. XIII (2), App. 5, Jan. or Feb. 1538, Cromwell's *Remembrances*, Chancellor to have all justices of the peace before him to-morrow in the Star Chamber "giving them charge for bruiting of news, vagabonds and unlawful games". And cf. XIII (2), no. 596, 12 Oct. 1538, W. Dynham to Cromwell on the Cornish friar whom he had to remind sharply that the "Prince and his Council set forth no new thing but the gospel of Christ", and to rebuke for wishing that the laws of God might have at least as much authority as the laws of the realm and for suggesting that recent conflagrations were due to image-breaking.

<sup>7</sup> XIV (1), nos. 532, 1303; XIV (2), no. 203.

<sup>8</sup> E.g. XIII (2), no. 974; XIV (1), nos. 236, 1271; XIV (2), no. 183; XV, nos. 32, 489.

<sup>9</sup> XIV (1), no. 285; and cf. *Epistolarum R. Pole...*, pp. 137 and 151, T. Cranmer a pupil of Machiavelli, and Henry's rule based on fear instead of love.

<sup>10</sup> XIII (1), no. 829; XV, no. 14, no. 436 g. 56.

French ambassador,<sup>1</sup> was always known, and Sir Giles Russell wrote his news to the Lord Privy Seal "and other of his most Privy Council".<sup>2</sup>

The council indeed is the main matter of all Henry's last eight years, for it was there that was fought out the battle which finished Cromwell, and after Cromwell's end for the rest of the reign there was no principal minister, only a shifting of cliques alternately jockeying for preponderance but never attaining any weight that the king could not cast about at his whim without the least effort: and the next king was to be a boy of nine.

It was in parliament that Cromwell had his last triumphs<sup>3</sup> and his final doom: perhaps his fate was sealed already by the end of 1538 when (with Henry's scant acquiescence, over-estimating the danger of invasion and under-estimating the wisdom of Henry's policy of neutrality) he espoused the German alliance.<sup>4</sup> At the beginning of 1539<sup>5</sup> he was proposing the Cleves marriage: already in March the arrival of Marillac as ambassador from Francis might seem to show that no friendship between France and Spain could last long, and that Cromwell's German commitments were unnecessary. As foreign minister he was not strengthening his position: but it was as parliamentary manager that he excelled: could he make enough of that excellence to keep himself safe?

Foreign policy was indeed the primary business of this parliament itself, for it was national defence that dictated its summons,<sup>6</sup> and not

<sup>1</sup> *L. and P.* XIV (1), no. 1261. Cf. Philip Hoby's memorandum, to "advertise my lord Privy Seal of a redress: 1st, to withdraw the King's council more secret together, and to avoid spiritual men thence for divers considerations": he added, "never better time to inflame malice against" the pope: XIII (2), no. 974, p. 416, Hoby was returning from embassy in Spain with Wyatt.

<sup>2</sup> xv, no. 489. Henry himself had added in a postscript to Wallop, on mission to the Queen of Navarre, "These things being mere overtures, has not opened them to his Council, and Wyatt must address his answer either to the King or the Lord Privy Seal", 5 April 1540, xv, no. 459.

<sup>3</sup> Cf. above, p. 405.

<sup>4</sup> Cf. Merriman, I, pp. 214, 237-9, 242-3, 247, 252.

<sup>5</sup> Shortly before Castillon had been writing to Montmorency that Southern England had better be annexed to France, because the ports would be useful, the north should be handed over to Scotland, whose ancient inheritance it was: Wales and Cornwall were natural enemies of the rest of England, speaking a language which is French ("for it is Breton Bretonnant"): "and that our Holy Father be not forgotten, the whole will return to his obedience": XIII (2), no. 1162.

<sup>6</sup> Cf. XIV (1), p. xxxviii.

unconnected with national defence were the statutes of this parliament that have already been mentioned,<sup>1</sup> defining doctrine, removing the disabilities of the religious, perfecting the transfer of monastic property: there were other statutes on the permanent topics of parliamentary interest, gavelkind poaching, joint tenancy, vagabondage, and wool-winding: but, lastly, two of this session's statutes deserve more attention, the Proclamations Act and the Precedence Act, because they are especially relevant to the specially important questions about this parliament: was its composition packed, or even stuffed, and if so was that an ordinary thing in Henry's reign? was its spirit submissive, even abject, to the point of compliance unexampled and unrepeated?<sup>2</sup> how much had Cromwell to do with the making of it, and it with the breaking of Cromwell?

The Precedence Bill was the first introduced into the upper house this session: with no apparent difficulty, in a week, it was dispatched.

*Precedence*, said the preamble,<sup>3</sup> was entirely a matter for the king's prerogative, but he was willing that it should be settled in this his most high court of parliament: none but his children should sit on either side of the cloth of estate in the parliament chamber, whether he were there or not: in recognition of his supreme headship his vicegerent Thomas lord Cromwell should sit above even the archbishop of Canterbury: then came the bishops in order: then the chancellor, treasurer, president, and privy seal (if they were barons), above all dukes but the king's sons and nephews: then the great chamberlain, constable, marshal, admiral, steward, and king's chamberlain, "above all other personage being of the same estates and degrees that they shall happen to be": the secretary of state, if a baron, above all other barons, and if a bishop, above all other bishops: and if any of these officers were under the rank of baron, "by reason whereof they can have no interest to give any assent or dissent", then they shall sit on the uppermost woolsack: the same order should be followed at the trials of peers and in the Star Chamber "and in all other assemblies and conferences of Councell".

<sup>1</sup> See above, p. 405.

<sup>2</sup> Cf. Mr Adair's quotations from Hume, Blackstone, Hallam, Froude, Stubbs, Acton, Dicey, in *E.H.R.* xxxii, p. 36. Cf. above, pp. 404-6.

<sup>3</sup> 31 H. VIII c. 10.



The general importance of this is clear enough—the enhancement of royalty, the definition of peerage, the generality of “council”: there is some particular significance also to be noted—Cromwell was still nearest the king (but then the king could make a new vicegerent any day), and whatever the commons might be the lords were certainly acquiescent enough if not obsequious:<sup>1</sup> in return for wholesale promotion of official above noble all they got was recognition<sup>2</sup> that the non-noble could not vote.

That parliament in this session was not wholly or merely subservient either to Henry or to Cromwell is shown by its treatment of the Proclamation Bill.<sup>3</sup> On 12 May 1539<sup>4</sup> it was read for the first time in the house of lords; on June 9 it was read the second time, on June 10 the third, and ordered to be put on parchment; on June 12 it was handed for draft amendment<sup>5</sup> to the chief justices, master of the rolls, attorney- and solicitor-general: on the 13th their amendments were accepted, and on the 14th the bill was passed and sent down to the commons. By them it was much debated,<sup>6</sup> and at last on June 24 rejected, but a newly drafted substitute sent up to the lords, who read it twice that day, and a third time the next day, when they directed the master of the rolls to incorporate in it certain final amendments: to this he got the consent of the commons, and on June 26 the bill was finally passed by the lords. This recital of the statute’s genesis may demonstrate that here was no case of a royal decree supinely registered by a slavish assembly,<sup>7</sup> and it will accordingly be the less surprising if an examina-

<sup>1</sup> Note also the growing importance of the secretary.

<sup>2</sup> And how new was that?

<sup>3</sup> Cf. what was said above, about the Six Articles Bill: cf. the Wills Bill, *L.J.* 1, p. 113, introduced in upper house May 31, June 6 read a second time, and then dropped.

<sup>4</sup> *L.J.* 1, pp. 107, 116, 118, 122, 123, and *L.P.* xiv (1), no. 1158: and for all this part cf. E. R. Adair, “The Statute of Proclamations”, in *E.H.R.* vol. xxxii.

<sup>5</sup> Such amendments “in plena curia declarabuntur”.

<sup>6</sup> Cf. *L. and P.* xiv (1), no. 1158, J. Husee to Lord Lisle, 25 June 1539, “The parliament is not yet broken up. They have rested fifteen days upon an act for proclamations, but they are now at a point and tarry but the making of the book”.

<sup>7</sup> It seems quite likely that the original draft was suspected as tending to facilitate arbitrary taxation: cf. Marillac’s dispatch of 5 July (summarised in *L. and P.* xiv (1), no. 1207, from Kaulek, *Corr. pol.*).

tion of the statute's terms be found to show that its purport was not nearly so outrageously despotic as is ordinarily supposed.

There had been numerous proclamations, said the preamble, about religion, for unity and concord, and for the general advancement of the public interest, but they were sometimes neglected, for want of consideration

what a king by his royal power may do, and for lack of a direct statute and law to coarct offenders. . . ; considering also that sudden causes and occasions fortune many times which do require speedy remedies, and that by abiding for a Parliament in the mean time might happen great prejudice. . . ; and weighing also that his Majesty (which by the kingly and regal power given him by God may do many things in such cases) should be driven to extend the liberty and supremacy of his regal power and dignity:

it was "therefore thought in manner more than necessary" that the king with the advice of his council should issue proclamations,

and that an ordinary law should be provided by the assent of his Majesty and Parliament for the due punishment . . . of such offences . . . ; Be it therefore enacted . . . that always the King for the time being with the advice of his honourable Counsell, whose names hereafter followeth, . . . may set forth at all time by authority of this Act his proclamations. . . . And that those same shall be obeyed observed and kept as though they were made by Act of Parliament. . . .

No one is bound to believe in the sincerity of a sixteenth (or even twentieth) century preamble, but sincerity is not necessary to give weight to words like these. The lawyers had not yet invented the doctrine that once a matter formerly within the ambit of prerogative has been dealt with by statute, it is thereby subtracted from the power of prerogative and cannot in future be dealt with except under statute; but this preamble was ominous of that anti-monarchical doctrine; here were powers direct from God, indeed, but if Henry VIII admitted that they were ineffective for want of a "direct statute" might not some later and smaller<sup>1</sup> king find it necessary to exercise the "regal power given him by God" with continuous regard to statute? Proclamation

<sup>1</sup> Henry's death had since very long been an occasional topic of political speculation, and this very act made provision for a minority.

became so much less regal, and so did the council, in so far as the first clause was effective, which turned what had been a method convenient to the king into a limitation upon him: for the purpose of issuing proclamations at least, the council was now a body of statutory composition<sup>1</sup> acting by majority.

The second clause provided that no one should be prejudiced by proclamation, in estate, office, liberty, goods or life, nor any acts, common laws, or "lawful or laudable customs of this Realm...subverted:... Except such forfeitures pains and penalties as in this Act and in every proclamation...set forth by authority of the same shall be declared and expressed; And except such persons which shall offend any proclamation to be made by the King's Highness...for and concerning any kind of heresies against Christian religion".

Clause iv prescribed the method of punishment—fine and imprisonment after conviction "by confession or lawful witness and proofs" in the Star Chamber or elsewhere, before a dozen lords of the council, two of them selected from chancellor, treasurer, president, privy seal, chamberlain, admiral, and chief justices.<sup>2</sup> Process might be begun (cl. iv) by the chancellor or the privy seal with the assent of six of the afore-named councillors. During a minority (cl. viii) proclamations should be signed by the councillors recommending them. Justices of the peace were not to be punished if they made reasonable efforts for the execution of proclamations.

Probably the best clue to the understanding of this statute (and a very good clue to the understanding of Tudor government in general) is Mr Adair's remark<sup>3</sup> that "the outstanding characteristic of a law lay in its sanction". Law was a much less territorial thing than now, and

<sup>1</sup> It is not suggested that this was intended to limit the king's power of choice, nor that it ever became the basis of such limitation (it will have been noticed that there was no provision for adding new names): only, it was an important part of a tendency towards fixing and formalising council and counsel, and that is the essence of the evolution of the Tudor into the Windsor monarchy.

<sup>2</sup> 34/5 H. VIII c. 23 made the minimum nine, at least two from the same quorum. The archbishop of Canterbury was the first mentioned in the list of those competent to sit, before the chancellor: hence the two informations under the statute printed in I. S. Leadam, *Select Cases in the Star Chamber* (II, pp. 225, 277) both begin "To the right honourable the lord Archbishop".

<sup>3</sup> *E.H.R.* xxxii, p. 41. Cf. p. 433 below.

what characterised one law from another was the question whose court, and which court, could punish breaches of it. Under the law of God, as the preamble recalled, there was much that the king could do by proclamation: so proclamation was law, but was it a law? in other words, what court would punish the breach of it? Proclamations would naturally be punished by the ordinary courts only if they were in pursuance of common law<sup>1</sup> or statute: otherwise they would depend upon conciliar jurisdiction. Now here was a contingency—the defence of the realm against every sort of invasion, heresy first and worst of all—which might demand proclamations in plenty and, as to heresy at least, not altogether plainly in declaration of common law or act of parliament. So the statute provided that whatever proclamations might be necessary should be within the common law, and how conciliar jurisdiction should be applied to them. In general persons proceeded against under proclamation might not be very apt to challenge jurisdiction,<sup>2</sup>

<sup>1</sup> In July 1535 Cromwell, anxious to stop the export of coin, had learnt that there was a statute of Richard III against it: but suppose there were not, he asked the judges and law officers, what might the king's highness by the advice of his council do? And the chief justice answered "that the King's highness by the advice of his Cownsayll might make proclamations and use all other policies at his pleasure as well in this Case as in Any other like For the avoiding of any such dangers, and that the said proclamations and policies so devised by the King and his cownsayll for any such purpose should be of as good effect as Any law made by parliament or otherwise" (Merriman, I, p. 410) but then, I suppose there could be no doubt about "this case" and "such dangers" coming under common law. Gardiner tells a story which may seem contradictory (in his famous letter to Somerset against the Injunctions, Burnet, v, p. 166). "many proclamations were made against the carriers out of corn; when it came to punishing the offenders, the judges would answer, it might not be by the laws, because the act of parliament gave liberty, wheat being under a price whereupon at the last followed the act of proclamation . . .".

The sequence was certainly not altogether *propter*, and (as Mr Adair points out, *E.H.R.* xxxii, p. 40) the Proclamations Act did not do what Gardiner here implies, i.e. give proclamations power contrary to statutes: but the judges when they said that punishment "might not be by the laws" may have meant without prejudice to the prerogative courts that it could not be inflicted by the common law courts: and anyway, the exporting of corn at a price where it was specifically permitted by statute was a different thing from the movement of coin, always a peculiarly royal concern.

<sup>2</sup> I. S. Leadam, *Star Chamber*, II, p. xx, says that Henry recognised Star Chamber to be in origin prerogative and not statutory, and "therefore preferred to fall back upon the authority of Parliament. A desire to be sheltered by Parliament from the remonstrances of foreign powers may also have been the motive for the ratification" in Nov. 1529 by 21 H. VIII c. 16 of a decree about resident alien handicraftsmen.

but anyway they certainly would not be able to if clauses 4 and 5 of 31 H. VIII c. 8 were observed.

To put it shortly and more accurately than such brevity usually admits, "this statute was concerned not at all with the legality of proclamations,<sup>1</sup> but merely with the manner of trying offenders against them".<sup>2</sup> Certainly, of all the proclamations which have survived from the period between 1539 and 1547,<sup>3</sup> when the statute was repealed, there is not one which might not have been enforced outside those dates: and indeed the later Tudors seem to have used proclamation much more arbitrarily than ever their father had done: but the Proclamations Act had contributed to that general conviction which was in the end to parliamentarise all English government—the conviction that statute is the "ordinary law" and that government is simplified and strengthened if all its powers and duties are defined by the ordinary law. Contemporaries noticed it little, but posterity was much influenced by it.

There is one more act of this session which ought to be mentioned, and that is the act of attainder<sup>4</sup> against Poles, Nevilles, Askes, and their accomplices: most of them were dead already,<sup>5</sup> except Reginald Pole,<sup>6</sup> who kept at a safe distance, and the duchess of Salisbury and the marchioness of Exeter, who were now imprisoned.<sup>7</sup> The evidence against the duchess was a tunic found in her chest, on one side of which was

the king's grace's arms of England, that is the lions without the fleur-de-lysses, and about the whole arms was made pansies for Pole and mari-

<sup>1</sup> But the mere fact that it had existed might nevertheless make it easier later on to assert the illegality of proclamations not covered by it.

<sup>2</sup> Adair, *E.H.R.* xxxii, p. 43.

<sup>3</sup> Mr Adair points out that the reduction of the minimum attendance ran out with Henry's death, and also the necessity of subscribing would be irksome to councillors.

<sup>4</sup> 31 H. VIII c. 15, not printed in *Statutes of the Realm* or *Statutes at Large*: there is a list of the attainted in *L. and P.* xiv (1), no. 867. And cf. p. 403, n. 5 above.

<sup>5</sup> Though there were a dozen fresh victims.

<sup>6</sup> He had intended, on his mission for the pope to Charles and Francis in 1539, to persuade them to war against Henry, although he denied this ten years later in a letter to Edward VI: cf. P. van Dyke in *E.H.R.* xxxvii, p. 422.

<sup>7</sup> The former to be executed two years later, the latter to be pardoned and to survive till 1558.

golds for my lady Mary. . . . And betwixt the marigolds and the pansies was made a tree to rise in the midst, and on the tree a coat of purple hanging on a bough, in tokening of the coat of Christ, and on the other side of the coat all the passion of Christ.<sup>1</sup> Pole intended to have married my lady Mary and betwixt them both should again arise the old doctrine of Christ. This was the intent that the coat was made, as it is openly known in the parliament-house. . . .<sup>2</sup>

In so far as they were dynastic, and rather further, these attainders were acts of foreign as well as of domestic policy, and in so far as they were connected with Cromwell's growing conviction that England could not be secure without an ally, they marked a step towards his ruin, towards that Cleves marriage which was to be the death of him.<sup>3</sup> No doubt they had a similar tendency in another way also, by convincing more lords, if any still lacked conviction, that Cromwell was a beast to be put down the moment his master's protection should be withdrawn.

Yet he still had friends. Another of the precautions taken at this time (May 1539) was the mustering, according to the old common law obligation, "of all men between the ages of sixty and sixteen, and the number of harnesses, weapons, with their kinds and diversities";<sup>4</sup> the City of London made this the occasion for a great display of military loyalty, encouraged thereto by the Lord Privy Seal, "to whom the city is and has been much bounden":<sup>5</sup> anyway, there was no difficulty about collecting as many men as could be armed,<sup>6</sup> and there were no doubt plenty whose ardours were fanned by such a display not against any minister but against every foreigner.<sup>7</sup>

<sup>1</sup> *L.J.* (1, p. 107, 12 May 1539) says "Insignia illa, quibus nuper Rebelles in Aquilonari parte Anglie in Commotione sua utebantur".

<sup>2</sup> J. Worth to Lord Lisle, *L. and P.* xiv (1), no. 980: cf. pp. 401 ff. above.

<sup>3</sup> Cf. Merriman, 1, p. 212.

<sup>4</sup> Hall, II, pp. 287 ff.

<sup>5</sup> *Corporation Records*, printed in *L. and P.* xiv (1), no. 940; Hall's account is borrowed therefrom with little change.

<sup>6</sup> *Ibid.* "all the fields were covered with men in bright harness from Whitechapel to Mile End, and from Bethnal Green to Ratcliffe".

<sup>7</sup> Gairdner says, with good reason and with half a dozen references, that "the people of the Island were unanimous in their resolve to defend their country": *L. and P.* xiv (1), p. xxxiv.

"I think", wrote John Husee, "the strangers that saw them did little rejoice thereat."<sup>1</sup>

Henry seems to have felt safe enough, whether from a simple cockney jingoism like Husee's or from a calculation of political possibilities better informed than Cromwell's: for Cromwell could not feel that England was safe without some firm alliance: and his caution brought him to the scaffold. Charles and Francis were on better terms than ever, the pope reminding them of his bull which had not yet been put into execution,<sup>2</sup> Scotland a danger and Ireland a nuisance, "and as for our own commons, their hearts be not so firm nor stedfast to the King but for fear"; so at least some might think, and apparently Cromwell did think, and could not rest in the comfortable belief that "the English were all united and no outward prince durst invade them... that England had never been overcome by outward enemies except when they had help within the realm".<sup>3</sup> Accordingly unity at home was to be sought in a strengthening of his own predominance, and strength abroad in union with Protestant forces: Gardiner must go, and Henry must marry a German.

In March 1539 credentials were given to Friar Barnes to proceed as envoy to Saxony, Denmark, and Wismar:<sup>4</sup> there were other envoys

<sup>1</sup> To Lord Lisle, 8 May 1539, *L. and P.* XIV (1), no. 941. At the same time there were envoys from the duke of Saxony and other Germans in London, and Marillac thought Henry seemed "assured of the Germans" (no. 908); at Rome there were imperial emissaries who were informing the pope of the amity between Francis and Charles, and receiving half-promises of financial assistance "for the enterprise of England" (no. 975). At about the same time there were proposals, apparently abortive, for raising a band of 500 mercenaries, "Their pacts with the king must be given to the provost, who shall punish them for not keeping the same" (XIV (2), App. no. 13). About the musters, some at least of those who had seen foreign parts and ways professed not to admire them much. One, who was trying to persuade a nephew of Bishop Fisher's to go to Rome (selling his lands, and buying "certain offices in the bank there, assuring me that for every 600 ducats I should have yearly 200 under the Pope") "concerning the muster he said that he hath seen lately at Rome seven times so many, much better apparelled" (*ibid.* no. 26).

<sup>2</sup> XIV (1), no. 985, 19 May 1539. Cf. p. 398 above.

<sup>3</sup> The first quotation is what Chris. Chaitour, servant to the bishop of Durham, was accused in December of having said: the second is what he himself declared that he had said. Dr Hillyard, a chaplain of Tunstall, held the same sort of views as the first quotation: he had counselled resistance to the Suppression, and about this time fled to Cardinal Beaton in Scotland. Cf. above, pp. 30, 69, 204 n. 3, 205.

<sup>4</sup> XIV (1), nos. 441-3.

negotiating with Saxony and Cleves, treating both of marriage and of artillery:<sup>1</sup> Cromwell was telling Henry that he had heard Anne excelled the duchess of Milan "as the golden sun did the silver moon":<sup>2</sup> in May and June the matrimonial negotiations were coming down to details:<sup>3</sup> by August it seemed clear that the Cleves authorities would declare Anne not at all bound by any contract with Lorraine, and Hans Holbein had taken her picture:<sup>4</sup> on September 4 the duke of Cleves commissioned ambassadors to conclude a treaty of marriage:<sup>5</sup> three weeks later Henry was making arrangements for Anne's journey,<sup>6</sup> early in October Marillac reported to Francis that the conclusion of the marriage was overwhelmingly probable,<sup>7</sup> and the treaty was made at about that time.<sup>8</sup>

Henry would not tell the French ambassador the details of the treaty, but he did purport to explain to him its motives: he wanted to be sure of help if necessary, naturally, he wanted children, he wanted to be a mediating influence in the religious troubles of Germany: he thought the duke of Cleves the most suitable prince to be an ally of his, next to Francis or Charles: he did not remind Marillac, perhaps because he thought it unnecessary, that after all William was not a protestant, but he did not let him forget that he was brother-in-law to protestant Saxony.<sup>9</sup>

So Cromwell was getting his own way in foreign policy. At home there was no one whose rivalry came near to being formidable except Gardiner. In September 1538 he had returned from his mission in France, and Cromwell had from the first watched him warily, kept him under the closest possible observation, kept him away from the king

<sup>1</sup> *L. and P.* XIV (1), nos. 103, 489, 490; there was talk not only of marrying Henry to Anne, but also Mary to the young duke of Cleves; and there were negotiations for hiring 500 haquebuters and pikemen (XIV (2), no. 13): and in December "fifty gentlemen called Pensioners or Spears were appointed to wait on the king, like as they were in the first year of the king", Hall, II, p. 294, and XIV (2), no. 751; Wriothesley, p. 112: cf. above, p. 400.

<sup>2</sup> No. 582, March 18.

<sup>3</sup> Nos. 920 and 1193, especially the question how far the marriage discussion had gone between Anne and the marquis of Lorraine.

<sup>4</sup> XIV (2), No. 33.

<sup>5</sup> No. 127.

<sup>6</sup> Nos. 221, 258.

<sup>7</sup> No. 274.

<sup>8</sup> Nos. 285-7.

<sup>9</sup> No. 388, 25 Oct.



as much as possible, seems to have made one unsuccessful attempt to ruin him altogether.<sup>1</sup> Gardiner kept his courage: his struggles against Cromwell's electioneering in Hampshire were vain,<sup>2</sup> though the resultant parliament was by no means at Cromwell's command: and the Subsidy Bill came to nothing, though Norfolk explained the king's necessity in the lords and in the commons Morison was put up by Cromwell to persuade the commons.<sup>3</sup> If in finance Cromwell could not carry parliament for the king, in religion it could be carried against him, with the king's help. As has been seen, the Six Articles Act was a demonstration of Henry's orthodoxy, a demonstration in which Gardiner and Norfolk were the chief, and joyful, assistants while Cranmer protested and Cromwell grudged.<sup>4</sup>

But the next round went to Cromwell. The risk of co-operation between Charles and Francis increased. Cromwell's own special and very protestant envoy, Robert Barnes, returned (towards the end of July or beginning of August 1539) from Denmark "very sad", it was reported, "and had licence to depart without speaking with the king".<sup>5</sup> It seems to have been this that led Gardiner to take the false step of attacking Cromwell for patronising the heretic Barnes: at the time when he launched his attack Henry was once again convinced of the necessity of a continental alliance, and accordingly of Cromwell, and Gardiner found himself excluded from the council, and "from court and public business".<sup>6</sup>

That seems to have been in August, and at the beginning of October the treaty was concluded. The pope was disquieted by the news, hardly less than he had been by the Frankfort Respite earlier in the year<sup>7</sup> and

<sup>1</sup> Muller, p. 77.

<sup>2</sup> *L. and P.* XIV (1), nos. 520, 573, 634, 662.

<sup>3</sup> Cf. Dietz, p. 148; *L. and P.* XIV (1), no. 869.

<sup>4</sup> Muller, p. 82. And cf. P. Janelle's edition of an unpublished poem on Gardiner (*Inst. Hist. Res. Bul.* vol VII), with the allegation that parliament had to be bribed by him to pass the Six Articles Act.

<sup>5</sup> No. 400: Barnes had told Constantyne that Cromwell wanted him to speak with the king, but he did not feel up to it. After the passing of the Six Articles Melancthon thought that Barnes was afraid to return to England, XIV (1), no. 1278.

<sup>6</sup> No. 423, Burchard to Melancthon: for the council cf. no. 750, Chaitour's account of his conversation with Craye.

<sup>7</sup> April 19. Cf. XIV (2), p. xv and no. 606; and Pastor, XI, p. 126, "compliance of the Imperial diplomatists...very questionable agreements...for fifteen months a

by Charles's evidently deeper interest in the empire than in Christendom. Shortly after the treaty, the English ministers were, according to Marillac, plunged in extreme jealousy and fear by the mutual complacencies of Francis and Charles, but he was bound to add that Henry showed himself "either more assured of Francis's friendship or more prudent in covering his suspicions".<sup>1</sup> At the turn of the year Anne arrived in England, and on 6 January 1540 Henry married her.<sup>2</sup> Now Cromwell's neck was in the noose: the king was married not only to a policy but also to a woman of the minister's choosing: when the king had had enough of the policy, the minister would lose favour: suppose the king to wish to change wife as well as policy, could any minister survive such a double failure? The king had never been quite wedded to the policy, the woman he was taking on a rather uneasy trust, and her wedding too was to prove incomplete.

On New Year's Day 1540 he saw her for the first time:<sup>3</sup> how much he was disappointed from the beginning cannot be known, for when six months later Cromwell asseverated Henry's distaste<sup>4</sup> he was making frantic efforts to save what he could by saying anything that then suited the king. Marillac thought her of medium beauty or rather less,<sup>5</sup> but of resolute countenance and vivacious wit. Even Hall,<sup>6</sup> though he called her fair, was more enthusiastic about her good qualities. She had several, certainly, but the only one that touched Henry was her diplomatic value. On Epiphany Day he went through with the marriage, and he put a brave face on it in public;<sup>7</sup> "and about her marrying ring was written, *God send me well to keep*".<sup>8</sup>

By the middle of February there were evident signs of cooling between Charles and Francis,<sup>9</sup> and in the ensuing weeks Henry grew

'Respite' was to be guaranteed to the adherents of the Confession of Augsburg, during which period none of them was to be molested on account of his religion, while the procedure of the Imperial Court of Chancery was also to be suspended. In return the Protestants were to refrain from all acts of aggression against the Catholics, but on 1 August a committee of learned theologians and pious peace-loving laymen was to meet at Nuremberg to discuss the terms of an agreement in matters of religion."

<sup>1</sup> *L. and P.* xiv (2), no. 508, Nov. 13.

<sup>3</sup> xv, no. 14.

<sup>4</sup> No. 823.

<sup>6</sup> II, p. 299.

<sup>7</sup> xvi, p. iii.

<sup>9</sup> Cf. xv, pp. xi, xix, xxiii, xxiv.

<sup>2</sup> Cf. Merriman, I, p. 263.

<sup>5</sup> Nos. 22, 23.

<sup>8</sup> Hall, II, p. 302.

more and more secure on the whole, in spite of some anxiety about Scotland, Ireland, and Calais.<sup>1</sup> Early in April continental dangers and the indispensability of his own special policy no longer offered Cromwell much help: on the 10th Marillac wrote<sup>2</sup> that Henry was "recalling those he had rejected and degrading those he had raised": especially Cromwell was tottering, and the bishops of Winchester and Durham "have now been called to the Privy Council, where before they did not enter at all". Cromwell was certain to lose his office of vicar-general anyway, and for the rest, "if he remains in his first credit and authority, it will be because he is very assiduous at affairs, although coarse for managing them, and does nothing without communicating it first to his Master, and shows himself willing to do justice, especially to foreigners, who are very pleased thereat".<sup>3</sup>

The three strains which run through the whole period and meet at every one of its crises were twisting themselves together more tightly to strangle Cromwell. Matrimony, diplomacy, religion, they were inseparable: it was failure in the first that was incurable, failure in the second that brought the time of reckoning, failure in the third that fixed the form of retribution: and as Dr Barnes had been Cromwell's notorious agent, so now his ruin prepared and foretold his master's.

Cromwell had rewarded him with a prebend,<sup>4</sup> and he was appointed to preach at Paul's Cross on the first Sunday in Lent. On the very day before, the bishop of Winchester's chaplain came and took that Sunday for Gardiner to preach on.<sup>5</sup> The bishop preached against the heretics who taught that "to be in heaven needs no works at all but only belief, only, only, nothing else", not omitting to point out that they were in effect continuators of Roman abuses, of the friar's trade of selling a man a pardon "to live merely and at his pleasure here, and yet have heaven at the last".<sup>6</sup>

A fortnight later (29 Feb. 1540) Barnes had his turn at Paul's Cross

<sup>1</sup> *L. and P.* xv, pp. xiii, xxxiii, xxxv.

<sup>2</sup> No. 486.

<sup>3</sup> G. Ribier, *Lettres et Mémoires...*, I, p. 513, summarised at no. 486.

<sup>4</sup> *L. and P.* xiv (2), no. 688, 15 Dec. 1539.

<sup>5</sup> S. Gardiner, *Declaration of Such True Articles as G. Joye hath gone about to confute*, fol. viii.

<sup>6</sup> Fol. ix, x (my spelling and punctuation). Barnes had been an Augustinian friar, and prior of their convent at Cambridge.

after all, and defiantly took the same text as Gardiner, whom "he termed . . . to be a fighting cock, and he was another, and one of the game. . . . He called me forth by my name Gardiner, and opposed me in my grammar rules", and "railed of me by name, . . . what evil herbs I set in the garden of scripture: so far beyond the terms of honesty, as all men wondered at it to hear a Bishop of the realm, as I was, so reviled". Gardiner complained to the Supreme Head. "How graciously the king's majesty heard the complaint, and how indifferently his majesty, after his accustomed goodness, ordered the examination of it, all good men might have cause to rejoice." Henry explained how much he preferred "concord in truth" to punishment, and

when Barnes offered to yield to his highness in his opinion, the king's grace sitting secretly in his closet and having with him the late earl of Southampton<sup>1</sup> (whose soul God pardon), the master of the horse that now is,<sup>2</sup> master doctor Cockes,<sup>3</sup> and doctor Robinson. The king's highness, at that offer of Barnes, said, I am (quoth his majesty) a mortal man, and therewith rising and putting off his bonnet and turning to the sacrament, said, Yonder is the master of us all, author of truth, yield in truth to him, and I shall (saith the king's majesty) defend the truth. And otherwise, Barnes, quoth the king's majesty, yield not to me. Much more was there notably spoken by the king's highness,<sup>4</sup>

after which Barnes and Gardiner were directed to commune together in the presence of Cox and Robinson and two others as reporters. At the second such colloquy (6 Mar. 1540) Barnes "fell on both his knees, and desired Gardiner to have pity on him, . . . granted himself overcome", and asked all present to sue the king that he might become Gardiner's scholar: the bishop offered him a pension of £40 a year, "and he to live fellowlike with me in my house". But after a very few days of pupilage Barnes gave it up and departed.<sup>5</sup>

<sup>1</sup> Wm. Fitzwilliam, died Oct. 1542.

<sup>2</sup> His half-brother Antony Browne, master of the horse 1539-48.

<sup>3</sup> Leonard Cox, friend of Melancthon and Erasmus, and eminent grammarian.

<sup>4</sup> Fol. xii.

<sup>5</sup> It should be remembered that all this is the account of Gardiner, who adds that Barnes insisted on being his scholar in spite of his offer to treat him as a fellow, but after two days "would no more come" unless "as one that came to confer", which Gardiner told him he was not yet ripe for.

Already before his departure, on the very day after his submission, one of his friends was preaching again his doctrines at Paul's Cross, not only justification by faith but also "that magistrates had not the power to make that which is indifferent not indifferent": this onslaught on the virtue of legislation, Gardiner notes, "confirmeth Barnes's book, where he teacheth that men's constitutions bind not the conscience".<sup>1</sup>

Perhaps Jerome and Barnes (and Garrard, another of the same sort) trusted in the protection of Cromwell; and perhaps it was even more to damage him than to punish them that they were attacked.<sup>2</sup> At any rate, the king sent for all three and commanded them to preach recantation sermons in Easter week.

Barnes preached his at St Mary Spital, on the Tuesday (30 Mar. 1540), before the lord mayor and the bishop of Winchester: he began with his recantation, and then "cried out to [Winchester], and asked me forgiveness with a marvellous circumstance, as though the world should think I had had need of such a public obtestation, and needs I must hold up my hand in token of a grant"; finally he "plainly and directly preached the contrary of that he had recanted,<sup>3</sup> so evidently, as the mayor of himself asked whether he should from the pulpit send him to ward". For the moment he escaped: but a little later accounts of the episode came to Henry and then "they were all apprehended and by the secret counsaile (to which company I<sup>4</sup> had then none access, nor had not almost a year before, nor had not after so long as Cromwell's time lasted) sent to the Tower, and thereupon ensued further process by the whole realm, whereunto I was privy but among the rest".<sup>5</sup>

Gardiner is almost too modest: at any rate, it seems clear that the ruin of Barnes and the rest was taken, not only as a feather in Henry's championship of orthodoxy—"never prince with more affection and with more charitable dexterity hath and daily doth persecute such

<sup>1</sup> *L. and P.* xv, no. 345.

<sup>2</sup> Cf. Muller, p. 88, and Merriman, I, p. 288: but Cromwell was the last man to minimise the force of legislation.

<sup>3</sup> Gardiner means the same as what he had recanted.

<sup>4</sup> Gardiner.

<sup>5</sup> *Declaration of Such True Articles* . . . , fol. xviii.

ungracious persons as do preach and teach ill-learnings"<sup>1</sup>—but also as a straw which showed the backing of the wind out of Cromwell's sails and into Gardiner's. One result was a reconciliation (Mar. 1540) between the two, in which Wriothesley also joined. Did Norfolk really believe that they were now "in their hearts . . . perfect entire friends"?<sup>2</sup> If Cromwell counted on such friendship he was to be bitterly disappointed: but for a little he could hold his own and rather more, thanks to renewed dubieties in foreign politics and to his usefulness in handling parliament.

The handling of parliament, and especially of the house of commons, remained one of the primary concerns of government. When Thomas Wriothesley and Ralph Sadler were made principal secretaries,<sup>3</sup> they were exempted from the Precedence Act,<sup>4</sup> so that instead of sitting in the upper house they might do the king service in the nether, "where they now have place".<sup>5</sup>

Perhaps Wriothesley's appointment, though hardly Sadler's, was a step in the anti-Cromwellian campaign: certainly that was forwarded by the consecration (4 April 1540) of Bonner to the bishopric of London and of Heath to that of Rochester,<sup>6</sup> and by the committal to the Tower of Barnes and his friends, "by the King's own commandment".<sup>7</sup>

When parliament met on the 12th of April,<sup>8</sup> it was different from what it had been because there were now no abbots in it,<sup>9</sup> but it was

<sup>1</sup> Letter from the duke of Norfolk, quoted by Wallop, in France, passing on to Lisle the news he had just heard from England, *L. and P.* xv, no. 429, March 31: cf. Merriman, I, p. 289; Muller, p. 89.

<sup>2</sup> At this very time Cromwell was trying to keep Norfolk away from the king on the ground that he had been in dangerous proximity to the pestilence: xv, no. 442.

<sup>3</sup> *L. and P.* xiv, no. 437, early April.

<sup>4</sup> 31 H. VIII c. 10, cf. p. 413 above.

<sup>5</sup> It is perhaps appropriate to note here, as connected with the modernisation of parliament, that according to Fred. Clifford, *Private Bill Legislation*, I, p. 330, "In 31 H. VIII the introduction at the head of the Chancery Roll for the first time defines the contents as statutes passed in a Parliament, the time and place of which are specified, and makes a precise distinction between public and private Acts". Cf. also p. 319, "Before the reign of H. VIII, all the Acts of one Parliament were contained in one roll. After that period each Act formed a roll by itself".

<sup>6</sup> The arrest of Barnes was the day before: Muller, p. 89.

<sup>7</sup> Wriothesley, I, p. 114.

<sup>8</sup> *L.J.* I, p. 128.

<sup>9</sup> The abbot of Westminster was a solitary revival under Mary, and in the first parliament of Elizabeth: C. H. Parry, *Parliaments of England*, p. 204 n., referring to *L.J.* I, pp. 124, 578.

the same in this, that its principal personage was still Thomas Cromwell, knight of the sacred order of the Garter, keeper of the privy seal, and his majesty's vicegerent, vicar-general, and official principal for ecclesiastical causes. The lord chancellor spoke first, beseeching the lords, as they revered God and loved their country, and indeed commanding them as they feared the king, to declare publicly, freely, and candidly whatever they might establish by their free suffrages for the general good or pronounce or point out to be done away with as pernicious.

Then Cromwell explained how Henry loved peace and hated discord, which like tares kept on cropping up, by rashness and freedom of the flesh, deep-rooted corruptions and superstitious obstinacies, cry and counter-cry of papist and heretic, misuse of scripture. The king, professing the purest Christianity as befitted a most Christian prince, leant to neither side but aimed straight at the pure Word of God and Evangelical Sincerity: accordingly he had appointed two committees of divines, one for the exposition of doctrine, the other for the regulation of ceremony. These committees were not to lack his majesty's suffrage, nor to slacken the execution of existing laws. The lords agreed that Mondays, Wednesdays, and Fridays should be devoted to their business, and the afternoons of other days.<sup>1</sup>

On April 18<sup>2</sup> Thomas Cromwell was made earl of Essex<sup>3</sup> and high chamberlain of England. On April 22 the lords were busy with a work within his special competence, a bill for reducing into the king's hands the possessions of the Hospitallers of St John, on May 1 they passed it unanimously, and on May 8 they received it back from the commons.<sup>4</sup> On the last date, also, the lords unanimously expedited and concluded a bill,<sup>5</sup> which had come up from the commons on the 3rd, for four tenths and fifteenths payable in four years and a subsidy of sixpence in the pound on movables and a shilling in the pound on revenue from lands,<sup>6</sup> payable yearly for two years.

<sup>1</sup> *L.J.* I, p. 129: cf. p. 443 below.

<sup>2</sup> *L. and P.* xv, no. 541.

<sup>3</sup> The last Bouchier earl of Essex had been killed by a fall from a horse, just over a month before: and Oxford, the last chamberlain, had died on March 19.

<sup>4</sup> With additions: cf. *L.J.* I, pp. 132-6.

<sup>5</sup> *S.R.* III, p. 814.

<sup>6</sup> Aliens were charged double, as usual.

Cromwell had proved himself as useful as ever, and for a month he was necessary enough—thanks to disorders in Calais and Ireland, threats from Scotland and France<sup>1</sup>—to escape attack, and even to look as if he might go on triumphing, for on June 1 Marillac was describing the arrest of the conservative bishop Sampson of Chichester and the expected release of Barnes and reinstatement of Latimer:<sup>2</sup> or perhaps it was only the inevitable delays about a reversal of policy that saved him,<sup>3</sup> and at any rate by June 10 Cromwell's master had made up his mind that he could do without him, and his enemies that they could be done with him.<sup>4</sup> On that afternoon the new earl of Essex was by the lord chancellor and other lords of the king's secret council sent from the Palace of Westminster to the Tower of London.<sup>5</sup>

Cromwell appealed to the consciences of Norfolk and other privy councillors

whether he was a traitor, but since he was treated thus he renounced all pardon, as he had never thought to have offended, and only asked the king not to make him languish long. Thereupon some said he was a traitor, others that he should be judged according to the laws he had made, which were so sanguinary that often words spoken inadvertently with good intention had been constituted high treason. The duke of Norfolk, having reproached him with some villainies done by him, snatched off the order of St George which he bore on his neck, and the Admiral, to show himself as great an enemy in adversity as he had been thought a friend in prosperity, untied the Garter.

Then he was taken by boat to the Tower, and Mr Cheyney, with all the king's archers, made an inventory of his goods, which proved rather disappointing.

The Admiral<sup>6</sup> is made lord Privy Seal, and lord Russell Admiral; the bishop of Durham is first secretary; of the office of vicar as to the spirituality, no decision has yet been come to, but people say that if one is made it will be the bishop of Winchester, who, since the imprisonment of his great adversary, has been called to the Privy Council, which, before, he was not accustomed to enter.<sup>7</sup>

<sup>1</sup> *L. and P.* xv, pp. xxx–xl.

<sup>2</sup> No. 737.

<sup>3</sup> Cf. Merriman, 1, p. 292.

<sup>4</sup> Perhaps they were also relying on Catharine Howard: cf. H. Soames, *History of the Reformation*, II, p. 408.

<sup>5</sup> *L.J.* I, p. 143.

<sup>6</sup> Fitzwilliam.

<sup>7</sup> *L. and P.* xv (1), no. 804, Marillac to Montmorency, 23 June 1540.



That was how it struck the French ambassador. Henry was anxious about the impression it would make: his council wrote on the day (10 June 1540) of the arrest to his ambassador in France,<sup>1</sup> explaining how Cromwell had worked against his plans for the settlement of religion and had boasted "that if the king and all the realm varied from his opinions he would withstand them, and that he hoped in another year or two to bring things to that frame that the king could not resist it". At the same time Marillac heard from one of the king's gentlemen the same explanation, only more specific on the religious point.

Cranmer alone had the courage to say a word for Cromwell. He did not venture (as who could? or should?) to denounce the accusers or deny the accusation, but he commended the accused, in a letter so graceful that it is hard not to transcribe it all:

I heard yesterday in your grace's council (13 June 1540), that he is a traitor: yet who cannot be sorrowful and amazed that he should be a traitor against your majesty, he that was so advanced by your majesty; . . . he that was such a servant, in my judgment, in wisdom, diligence, faith and experience, as no prince in this realm ever had. . . . If the noble princes of memory, king John, Henry II, and Richard II had had such a counsellor about them, I suppose that they should never have been so traitorously abandoned and overthrown as those good princes were. . . . I loved him as my friend, for so I took him to be; but I chiefly loved him for the love which I thought I saw him bear ever towards your grace, singularly above all other. But now, if he be a traitor, I am sorry that ever I loved or trusted him, and I am very glad that his treason is discovered in time: but yet again I am very sorrowful: for who shall your grace trust hereafter, if you might not trust him? . . .<sup>2</sup>

On June 17 a bill to attain Thomas earl of Essex was read by the lords, and on the 19th, having been read twice more, passed by the consent of all present and sent to the house of commons: there such dispatch and unanimity were not found. It was not till June 29 that the bill came back to the lords and even then the commons had not

<sup>1</sup> *L. and P.* xv (1), no. 765, 10 June: probably sent also to Ireland, Calais, Wales, and the North. Wallop was also invited to revive the old rumour that Cromwell had meant to marry Mary and make himself king: Merriman, 1, p. 294 n.; Dixon, II, p. 243, says that Wallop took the initiative.

<sup>2</sup> *Works*, 1, p. 402.

simply accepted it without alteration. Henry, at any rate, was admirably prompt, for the very day the bill came back to the lords, he assented to it.<sup>1</sup>

From the first Cromwell can have had but little hope. Henry meant to make every possible use of him, and he was desperately anxious to be as useful as possible. When he was invited to write such things as he thought meet concerning his most miserable estate, he protested (12 June 1540) his utter loyalty: "If it were in my power to make you live for ever, God knows I would; or to make you so rich that you should enrich all men, or so powerful that all the world should obey you. . . . I have committed my soul to God, my body and goods to your pleasure. As for the Commonwealth, I have done my best, and no one can justly accuse me of having done wrong, wilfully". Perhaps he had been too busy to be ideally strict in punishing offenders, but he had not said what Throgmorton and Rich accused him of saying, he had not "revealed a matter of great secrecy",<sup>2</sup> had not been guilty of "retaining".<sup>3</sup>

A little later Cromwell answered a series of questions drafted by the king in his own hand—Henry had been much disappointed by Anne's appearance, and protested that he would not go through with the marriage if it were not that she had come so far, "and for fear of making a ruffle in the world and driving her brother into the Emperor and the French king's hands": nor had he felt altogether satisfied about her release from her pre-contract with Lorraine: and, one way and another, he had been so little pleased with her (as he told Cromwell next morning and on several later occasions) that he had never consummated the marriage,<sup>4</sup> indeed "should never have any more children if he so continued, declaring that before God he thought she was not his lawful wife".<sup>5</sup>

This was what Henry wanted, but it was not enough to stop the

<sup>1</sup> Burnet, I, p. 443: the entry in *L.J.* I, p. 149, is not very clear: I think the lords accepted the new bill of attainder which the commons had preferred to theirs.

<sup>2</sup> Presumably Henry's wish to be rid of Anne. For Throgmorton, cf. pp. 204 and 435.

<sup>3</sup> *L. and P.* xv, no. 776.

<sup>4</sup> xv, no. 822.

<sup>5</sup> No. 823, and note that for dealing with the agents of Cleves the king bade Cromwell "call together the Council, viz. the abp. of Canterbury, Norfolk, Suffolk, my lord Admiral, my lord of Durham, and himself": this was written on June 30, the day after the attainder was finally passed in the lords.

attainder. Even the attainder did not persuade Cromwell to accuse any others, nor, on the other hand, to depart from his attitude of complete submission. When he heard it had been passed, he "said, as now I say, that I am a subject, and born to obey laws, and, knowing that the trial of all laws only consisteth in honest and probable witness,<sup>1</sup> and considering that the state of your whole realm had heard and received them, and that they have proceeded, as I am sure they have done, without malice, I submitted me to their sentence":<sup>2</sup> but though laws are laws yet God is God, and knoweth his faithfulness both to Henry and to the kingdom, that he had never been a sacramentary, that he had never embezzled: and once more he recited the story of Henry's honeymoon, as best he could from his information and for the king's convenience.

It will have been noticed from the last paragraph how Cromwell went out of his way to approve the procedure by which he was suffering, although it might seem that if anything were Law—Law of God, Law of Nature, Fundamental Law, indefeasible, to be pleaded in bar of statute—it might be the law of reason and of nations and of mercy, that no one should be punished unheard. Just over a year before, when the act had been passed attainting Nevilles and Poles and northern rebels and more, many of them were already dead and others abroad, but Lady Exeter and Lady Salisbury, for instance, were alive and safe, as safe as they could be in the Tower, and yet they had been given no chance to be heard in their defence.<sup>3</sup> The legend, thoroughly credible, how this practice of condemning got established, has been preserved by Coke:<sup>4</sup>

... Although I question not the power of the parliament, for without question the attainder standeth of force in law: yet this I say of the manner of the proceeding, *Auferat oblivio, si potest; si non, utcumque silentium tegat*: for the more high and absolute the jurisdiction of the court is, the more just and honourable it ought to be in the proceeding, and to give example of justice to inferior courts. But it is demanded, since he was attainted by parliament, what should be the reason that our historians do all agree in this, that he suffered death by a law which

<sup>1</sup> N.B. that Cromwell had clear notions about jurisdiction as well as legislation.

<sup>2</sup> *L. and P.* xv, no. 824.

<sup>3</sup> Cf. xrv (1), p. xlv; also xv, p. xlix for the attainder of Barnes, etc. as heretics and Abell etc. as traitors in the same session as Cromwell.

<sup>4</sup> Edward Coke, *Institutes*, pt. iv, p. 36 (edition 1797).

he himself had made.<sup>1</sup> For answer hereof, I had it of Sir Thomas Gawdye, knight, a grave and reverend judge of the king's bench, who lived at that time, that king Henry VIII commanded him to attend the chief justices, and to know whether a man that was forthcoming might be attainted of high treason by parliament, and never called to his answer. The judges answered, that it was a dangerous question, and that the high court of parliament ought to give example to inferior courts for proceeding according to justice, and no inferior court could do the like; and they thought that the high court of parliament would never do it. But being by the express commandment of the king, and pressed by the said earl to give a direct answer: they said, that if he be attainted by parliament, it could not come in question afterwards, whether he were called or not called to answer.<sup>2</sup> And albeit their opinion was according to law, yet might they have made a better answer, for by the statutes of Magna Carta cap. 29, 5 E. III cap. 9, and 28 E. III cap. 5, no man ought to be condemned without answer etc., which they might have certified, but *facta tenent multa, quae fieri prohibentur*; the act of attainder being passed by parliament, did bind, as they resolved.<sup>3</sup>

Probably something of the sort happened:<sup>4</sup> anyway, the story is virtually true. Cromwell had made a career more consciously than most men, and much more consciously than most men had made it on

<sup>1</sup> ? treasonous words.

<sup>2</sup> That is effective "law" for all practical purposes which produces a decisive result that cannot be questioned later. The precedent in question is one of the steps by which the court of parliament becomes the sovereign legislature. Cf. p. 416 above.

<sup>3</sup> Slight alterations of spelling and punctuation by me. Coke adds that "the party against whom this was intended was never called in question, but the first man after the said resolution that was so attainted, and never called to answer, was the said earl of Essex". This disagrees with my earlier paragraph but it does not touch the essence either of Coke's story or of my argument. Coke also added that the precedent could do no harm, because "such honourable and worthy members shall be from time to time of both houses of parliament, as never any such attainder, where the party is forthcoming, shall be had hereafter without hearing of him". He went on to deal with the case of John Mortimer under Henry VI, "brought into the parliament without arraignment or answer . . . judgement in parliament was given against him . . . hanged, drawn, quartered . . .".

<sup>4</sup> Cf. Hall, II, p. 306: "he was attainted by Parliament, and never came to his answer, which as many reported, he was the causer of the making thereof, but the truth thereof I know not". And Hastings Robinson, *Original Letters* . . ., p. 202, Hilles to Bullinger, "I know nothing for certain as to the cause of Cromwell's execution, because he was not brought for examination before the tribunal, as had always been the case heretofore with all noblemen, and especially when accused of treason against the king".

a principle, the principle of the omniscience and absoluteness of parliament. Perhaps it should be credited a little to his logicity, though without doubt much more to his sense of submission as the only hope, that his last letter asserted his case to have been heard and judged by the state of the whole realm. The crimes for which he was punished were various and enormous: the act of attainder began<sup>1</sup> by reminding the king, how he was "justly lawfully and really entitled to be our sole supreme head and governor", and how indefatigable he had been "to support and maintain as well the laws of Almighty God as the Laws" made and ordained by himself, and how he had promoted counsellors to aid him in that good work, among them Thomas Cromwell, "then being a man of very base and low degree"; whom now of late his majesty had found, by a large number of witnesses, to be the most false and corrupt traitor—he had released persons convicted of misprision of treason, and others suspected of treason itself: he had taken money for granting export licences contrary to proclamation: he had deputed the royal authority without the king's consent: he had boasted that he was sure of the king: being a detestable heretic and inclined to sedition and variance he had broadcast erroneous books, especially about the sacrament of the altar: he had used his powers as vicegerent, and had forbidden method of retaining, to protect and encourage heresy and its teachers, and had boasted that

if the king would turn from it, yet I would not turn: and if the king did turn, and all his people, I would fight in the field in mine own person, with my sword in my hand against him and all other; and then, and there, most traitorously, pulled out his dagger, and held it on high, saying these words, or else this dagger thrust me to the heart, if I would not die in that quarrel against them all: and I trust, if I live one year or two, it shall not lie in the king's power to resist or let it if he would:

his corruption had made him so rich<sup>2</sup> that he despised the nobles and boasted that their whole estate could not put him in awe. Accordingly,

<sup>1</sup> Burnet (*Pocock*), iv, p. 315.

<sup>2</sup> John Gostwick (cf. above, pp. 248, 410) wrote to Henry on July 9 about £10,000, "which I treasured from time to time unknown unto the earl of Essex, which if I had declared unto him, he would have caused me to disburse by commandment without warrant, as heretofore I have done": *L. and P.* xv, no. 862.

he was convicted of heresy and high treason, to suffer loss of life and goods as for either, at the king's pleasure.

This sentence is so very positive and specific about Cromwell's heresies that it may make a reader doubt a little the unanimous assumption of modern writers' that he simply had no religious existence: not much more than a little doubtful however, and anyway there are more important questions: some, like the first, unanswerable; who were the many witnesses? were there others besides Rich and Throgmorton?<sup>1</sup> No doubt almost all lords and many commoners were willing to believe the alleged facts, and from the alleged facts most contemporaries would be certain that Cromwell was guilty of heresy. It may be a little more difficult to see how, on the alleged facts, they found him guilty of high treason. The essence of the crimes set out in his attainder was his over-topping or over-reaching of the king, perverting or embezzling the royal authority, being able to steer it and boasting that he would be able to resist and reverse it.

On 28 July 1540 Cromwell was beheaded, the king having graciously remitted the more painful and ignominious penalties of hanging and burning.<sup>2</sup> On the scaffold he was permitted, or more probably directed, to make a speech, which he began by acknowledging his condemnation to be by the law, and finished (apart from loyal salutations) by testifying to the "Catholic faith, not doubting in any article of my faith, no nor doubting in any Sacrament of the Church".<sup>3</sup> His son continued to enjoy the royal favour.

At about the same time there was a whole batch of executions: along with Cromwell was beheaded Walter lord Hungerford, "for treason of sodomy", said Wriothesley,<sup>4</sup> thus showing how wide was the conception of treason, though it is true that the attainder alleged also the harbouring of rebels and the procuring of conjurers who predicted the king's death:<sup>5</sup> according to Hall at the time of his death he "seemed

<sup>1</sup> According to Marillac (*L. and P.* xv, no. 804) letters were found to and from Lutheran princes, and were particularly damaging. For Throgmorton, cf. pp. 204 and 431.

<sup>2</sup> xv, no. 926.

<sup>3</sup> Hall, II, p. 307: cf. Foxe and Holinshed (1587), I, p. 951, and Merriman, I, p. 301.

<sup>4</sup> I, p. 120.

<sup>5</sup> *L. and P.* xv, no. 498, p. 216. Hungerford had been an apparently trusted agent of government till May 19 at least: cf. xv, nos. 185, 333, 353, 689; no. 784 (June 15) directs a search for evidence against him.

to be very unquiet in mind and rather in a frenzy than otherwise". On July 31 Powell, Abell, and Fetherstone were hanged for denying the royal supremacy, and Barnes, Gerome, and Garrard were burned as heretics. "It was wonderful to see adherents to the two opposing parties dying at the same time, and it gave offence to both."<sup>1</sup>

Cromwell's enemies had pulled him down: Henry had shown that he was with them in detesting heresy but that he detested no less any doubt of his supremacy. He had let them destroy his minister because he felt his policy at home to be firmly established, and his policy abroad he was prepared to change: accordingly, he was in a position also to change his wife, and that was done without delay. The more because Henry knew whom he wanted next: she was a kinswoman of Norfolk, and had been treated as a favoured guest, perhaps as a trusted decoy, by Gardiner:<sup>2</sup> so everything tended to hurry Catharine Howard on to a throne.

By the beginning of July (1540) there was talk of Henry's new attachment, and by July 21 it was already being rumoured that the marriage had taken place.<sup>3</sup> On July 7 the process for getting rid of Anne had been started: the lord chancellor, archbishop of Canterbury, dukes of Norfolk and Suffolk, and bishop of Durham addressed the other lords<sup>4</sup> on the immense evils of doubtful matrimony and disputed succession: they themselves had been agents in contracting the Cleves marriage, and felt much doubt of its legitimacy and accordance with divine law. So they asked what ought to be done, and the lords all agreed that since this business was of the highest moment to all ranks and estates, accordingly the house of commons ought to be consulted, and if they

<sup>1</sup> Marillac adds "And it was no less strange to hear than horrible to see, for the obstinacy and constancy respectively of both parties, and the perversion of justice of which both parties complained, in that they had never been called to judgement, nor knew why they were condemned". No. 953: Marillac thought that this was worse than the rigour of the Jewish law, and that accused were given a hearing everywhere except in England, where a new act of parliament had deprived them of that right: but he was evidently rather muddled.

<sup>2</sup> Cf. *D.N.B.*; and Hastings Robinson, *Original Letters...*, p. 202, Hilles to Bullinger, "the bishop of Winchester also very often provided feastings for them (Henry and Catharine Howard) in his palace".

<sup>3</sup> *L. and P.* xv, nos. 848, 901.

<sup>4</sup> *L.J.* 1, p. 153.

consented then the doubts should be opened to his majesty, and by his permission discussed and decided by the whole clergy of England *jam ad hoc Parliamentum convocatis*. Then the six went down and put the problem to the house of commons, and withdrew while it was debated: a little later Sir Thomas Cheyney, treasurer of the king's household, and Sir William Kingston, comptroller, with a couple of dozen more, brought the consent of the lower house, and a warning against delay. Accordingly, all the temporal peers, with the delegates of the commons, went to the king, and by the mouth of the chancellor first gave him great thanks for the general pardon,<sup>1</sup> and for the faculty of freely disposing a great portion of their lands,<sup>2</sup> and for his majesty's many other munificences: "asking besides that his most excellent serenity might deign, of his inestimable goodness, to allow" them to open a great matter. He answered that he thought his liberality well placed, and as for the rest, he would listen favourably, being sure they would propose nothing unjust, dishonest, or irrational. So the chancellor came out with it, and the king said he was quite willing that the case should be committed to convocation, in which he believed there were as many grave, literate, honest, and pious men as anywhere: and he ordered letters patent to be drawn for the purpose, and promised before God that he himself would hide nothing of the truth, and desired nothing more than that glory should remain in God, safety in the commonwealth, and his own liberty and authority in truth.

The commons need not have worried about delay: on that same day the Supreme Head issued to the archbishops and clergy a commission to enquire into the validity of the Cleves marriage and his own consequent capacity or incapacity to marry some one else.<sup>3</sup> On the same day, also, seven lords went down to Richmond to persuade Anne, "who at length was contented with the proposal".<sup>4</sup> Gardiner was one of the seven: he seems, indeed, to have taken the lead in all this business,<sup>5</sup>

<sup>1</sup> 32 H. VIII c. 49.

<sup>2</sup> C. 1: cf. below, p. 441, and above, p. 282 n.

<sup>3</sup> J. Strype, *Eccl. Memorials*, vol. 1, pt. 2, p. 450: cf. also *L. and P.* xv, nos. 843, 942 (26).

<sup>4</sup> No. 908, Henry VIII to Clerk and Wotton, ambassadors at Cleves.

<sup>5</sup> Cf. no. 821, memoranda of the procedure to be adopted, in his handwriting: cf. Muller, p. 91.



and now hurried back to town to attend convocation, where he was the king's principal advocate. There on 7 July 1540 he opened the case, and a committee was appointed to receive and prepare all the evidence. Depositions on oath were taken from the king's physicians and all his most intimate counsellors,<sup>1</sup> and he himself made a declaration<sup>2</sup> and sent Cromwell's letter.<sup>3</sup> On the afternoon of the 8th "it was agreed in full Convocation that the King and Anne of Cleves were nowise bound by the marriage solemnised between them", and the next day letters testimonial to this effect were sent to the king.<sup>4</sup> On July 10 the archbishops and bishops,<sup>5</sup> in the names of themselves and all the clergy, signified to the lords that they had diligently discussed and at length determined the present business of matrimony, which they found invalid, by Divine Law and human. So far the chancellor spoke for them, and then Gardiner read the letters testimonial in Latin and explained them in English: the lords all consented, and agreed that he and the archbishops should repeat the explanation to the commons. On July 12 the lords read for the first time a bill declaring the invalidity of the "pretensed" marriage, on the 14th for the second and third times, on the 16th it came back with the lower house's consent: on the 24th it<sup>6</sup> received the royal assent, with many other bills. But not everything was assented to, for a bill about the merchant adventurers Henry rejected:<sup>7</sup> and before there was royal assent to anything there was an address delivered by the Speaker to both houses—about the world, divine celestial and elementary: the microcosm man, head breast and lower parts: and the commonwealth, king nobles people: the king was head of all, and such a head that he most felicitously directed the whole body of England, and many things of his right he most clemently released, as this late pardon, and the liberty of bequeathing two thirds of one's lands:<sup>8</sup> and under this royal head England not only flourished like no other state in Christendom, but was restored to its full liberty, wherefore his majesty had great thanks: at which

<sup>1</sup> *L. and P.* xv, no. 860 (from Wilkins, III, p. 851, from Cranmer's Register, fol. 141).

<sup>2</sup> Printed by Burnet, IV, p. 430.

<sup>3</sup> *I.e.* xv, no. 823.

<sup>4</sup> Printed by Burnet, IV, p. 431.

<sup>5</sup> *L.J.* I, p. 154.

<sup>6</sup> 32 H. VIII c. 25.

<sup>7</sup> *L.J.* I, p. 162.

<sup>8</sup> Cf. p. 437 above.

they all rose and bowed with great reverence. "And the Royal Majesty benignantly bowed." Then the Speaker presented the subsidy bill and the other bills.

It may be worth while to recapitulate the order of events: the initiative taken by the lords of parliament (especially, no doubt, those most in the king's confidence): their consulting of the commons, and the commons' agreement that it was a question for the clergy (again, an agreement reached under the presidency of a royal servant only recently released from the Tower,<sup>1</sup> and restored to be Speaker,<sup>2</sup> having been found guilty in the star chamber of an offence against the prerogative royal and imperial crown;<sup>3</sup> and an agreement voiced by the king's immediate servants): parliament's begging the king, as another among so many favours, that he, by the conjunction of titles "a just and undoubted pure and perfect king of this realm",<sup>4</sup> might avoid all matrimonial ambiguities and submit the question to convocation: the letters patent, the consent of Anne, the judging of facts and law by the clergy and their announcing a decision, and parliament (by the gracious condescension of its head and chief) confirming that decision for all purposes of English jurisdiction—all this exemplified very precisely and very happily Henry's conception of the relations between Crown and Law and Church and Parliament—Henry's practical control, parliament's wide interest and supreme jurisdiction, the clergy's competence: not even for a Tudor was law to be made and unmade, though the great Tudor might be sure that he would not will what law would not concur with; and when there was a question of canon law, then it was from the clergy that the answer was to be expected, though by parliament that it would be enforced.

It has been said<sup>5</sup> that the Cleves nullity suit marked the extremity

<sup>1</sup> 3rd March, *L. and P.* xv, no. 291.

<sup>2</sup> 12th April, Hall, II, p. 305.

<sup>3</sup> Under the Statute of Uses 27 H. VIII. On March 21 Hare was succeeded by Robt. Southwell as councillor for hearing requests, at a salary of £100 (xv, no. 436 (56)). By May 9 and in July he was once more in official employment (nos. 733 (30) and 942 (39)), and on August 4 he was made justice of Cheshire and Flint and restored to his salary of £100 (no. 1027 (31 and 32)). The condemnation of Sir John Shelton's attempt, in which Hare had been implicated, to evade the Statute of Uses was confirmed by the next parliament, 33 H. VIII c. 26.

<sup>4</sup> From the preamble to 32 H. VIII c. 25.

<sup>5</sup> E.g. by Burnet, I, p. 448.

of clerical submissiveness: this may be so, and the decision is certainly shocking to ordinary notions about the sanctity of contract, but apparently it was, and is, sound at canon law. There was a pre-contract which had not been sufficiently cleared: there had been a defect of intention in the sacrament of matrimony, the king having gone through the form of it under the impulse of his political necessities, against his true desire and without inward consent: and the marriage had never been consummated. So the decision is legally at least defensible, and practically it was not cruel. Anne was prepared to be a sister to Henry:<sup>1</sup> she was very well provided for, and she stayed in England, apparently comfortable and contented, till she died in 1558. Nor was the political effect bad: if Henry had somewhat alienated the German princes, he had at least equally strengthened his relations with Francis and Charles.<sup>2</sup>

On 28 July 1540,<sup>3</sup> the day of Cromwell's execution, Henry was privately married to Catharine Howard, and on August 15 she was publicly prayed for as queen. As such she was for fifteen months very successful, and as late as 1 November 1541 the king directed "the bishop of Lincoln, his ghostly father, to make prayer and give thanks with him for the good life he led and hoped to lead with her".<sup>4</sup> It was not to be, however, and parliament was yet once more to end a royal marriage and once more to pass an act of attainder. But meanwhile it is convenient to say what more is necessary about the 1540 session of parliament, and in general to fill in the gaps of 1540 and 1541.

The great mass of the 1540 enactments (eighty altogether, of which about a quarter were private) dealt with the ordinary material of statute, legal adjustments and economic expedients. But there are some of them, and some dealing with religion, that demand attention from the constitutional historian. The Statute of Wills<sup>5</sup> was a reversion, after dealing with the monasteries and the Pilgrims, to the plan Henry had entertained in 1529,<sup>6</sup> and a thank-offering to the gentry for backing

<sup>1</sup> *L. and P.* xv, no. 898.

<sup>2</sup> Cf. xv, p. xlvi.

<sup>3</sup> *D.N.B.* referring to *Deputy Keeper of Public Records*, 3rd Report, App. II, p. 264.

<sup>4</sup> *L. and P.* xvi, no. 1334.

<sup>5</sup> 32 H. VIII c. 1: cf. above, pp. 282, 298, 437, 438, and cf. 34/5 H. VIII c. 5.

<sup>6</sup> Holdsworth, iv, p. 465; iv, p. 294, speaking of the changes which made the necessary adaptations of the English law to the rise of the modern English state,

the king in those two decisive affairs: with some safeguard for the king's feudal profits, land held in socage and two-thirds of any held by knight-service could be devised: the statute did not apply to copyhold, but this limitation was soon evaded.<sup>1</sup> Now landowners had very wide powers of determining the future devolution of their property, and primogeniture depended on the preference of the possessing classes, but there was plenty of that, and the combination of wills and uses gave great security, hence great strictness, of settlement, and hence facilitated primogeniture: "That they were able to have this large effect is due to that mixture of the conceptions of authority or mandate" and of property which was characteristic of medieval land law:<sup>2</sup> at the same time the Statute of Wills very much strengthened the tendency, already strong, to regard land simply as a species of property. Another act made better provision for the trying of treasons committed in Wales:<sup>3</sup> a reinforcement of the statutes against maintenance and embracery contained also a clause against the selling of any rights in lands unless the seller had held them for at least a year,<sup>4</sup> which looks as if the government was anxious to keep real-estate speculation down to a minimum: the lord steward's jurisdiction was continued undiminished under the title of Lord Great Master<sup>5</sup> "or graunde maistre Dhostel du Roy", which is a curious instance of the tendency at this period, fiercely and increasingly nationalist as it was, to ape the French: pheasants and partridges,<sup>6</sup> and tithes,<sup>7</sup> obtained additional protection: the breed of horses was to be improved,<sup>8</sup> but horses were not to be sold to Scotchmen and the jurisdiction of the wardens of the marches against that abuse was defined:<sup>9</sup> for encouraging the merchant navy and seaport

describes this and the Statute of Uses as the only two "which made radical changes in existing departments of purely private law": but if contemporaries could have been persuaded to attach any meaning to *private law*, they would hardly have included in it uses and wills of land: p. 464 recalls the abolition by the Statute of Uses of the power to devise freehold: p. 466 notes the establishment in 1540 of the Court of Wills to secure the royal rights under the new statute, and the act of 1542/3 tightening it up: v, p. 416, how the statutes of Uses and Wills led to a rapid increase in the complexity and bulk of land law.

<sup>1</sup> Holdsworth, VII, p. 367.

<sup>2</sup> Holdsworth, VII, pp. 190, 191.

<sup>3</sup> 32 H. VIII c. 4.

<sup>4</sup> C. 9.

<sup>5</sup> C. 39.

<sup>6</sup> C. 8.

<sup>7</sup> C. 7.

<sup>8</sup> C. 13.

<sup>9</sup> C. 6.

towns the Navigation Acts were confirmed,<sup>1</sup> and maximum freights were fixed, though the privileges of the steelyard were preserved; restraints on resident and visiting aliens were revived and tightened:<sup>2</sup> towns were to be rebuilt.<sup>3</sup>

Then there was a batch of statutes arising out of the religious situation: the Six Articles Act, denouncing death upon every incontinent priest, was found impracticably severe, and accordingly the penalty was reduced to life imprisonment for the third offence:<sup>4</sup> episcopal enquiry under the Six Articles Act was facilitated by extending commissions to archdeacons and commissaries:<sup>5</sup> chapter 12 made another endeavour to diminish and regulate sanctuary, and chapter 20 vested in the king all franchises and temporal jurisdictions used by former owners of religious houses. In the three days<sup>6</sup> immediately before the opening of the Cleves case was passed a bill<sup>7</sup> dealing with the general question of matrimony and its validity. "Whereas heretofore the usurped power of the bishop of Rome hath always entangled the mere jurisdiction and legal power of this realm... till now of late in our sovereign lord's time, which is otherwise by learning taught than his predecessors in times past of long time have been... , whereof some sparks be left which hereafter might kindle a greater fire", the sparks consisting in papal prohibitions of what God's law permitted, "whereof there had never else but for his vainglorious usurpation been moved any such question"; therefore it was enacted that within this church of England the only prohibited degrees for matrimony should be the Levitical degrees, and no pre-contract should have any invalidatory effect unless it had been consummated. This enactment might seem a little odd,<sup>8</sup> from a sovereign who had used an unconsummated pre-

<sup>1</sup> 5 R. II st. 1, c. 3; 6 R. II st. 1, c. 8; 4 H. VII c. 10; 23 H. VIII c. 7; 32 H. VIII c. 14.

<sup>2</sup> C. 16: cf. *L. and P.* xv, no. 995 for Marillac's questioning of the statute, and Index under *Aliens*.

<sup>3</sup> Cc. 18, 19.

<sup>4</sup> C. 10.

<sup>5</sup> C. 15.

<sup>6</sup> July 2, 3, and 5, the fourth being a Sunday on which parliament did not sit: *L.J.* 1, pp. 150 ff.

<sup>7</sup> C. 38.

<sup>8</sup> Cf. Burnet, 1, p. 451, who suggests that perhaps the object was a little to pare away Elizabeth's illegitimacy.

contract for getting rid of one wife<sup>1</sup> and was about to use the same engine for un-making another, even though the enactment did at the same time authorise him to marry Anne Boleyn's cousin-german.<sup>2</sup> What is certain is that no such point was overlooked, for two of the committee of four bishops who sat on the bill were Cranmer and Gardiner. Probably the main object was that Henry's matrimonial vicissitudes should not put ideas into the heads of his subjects: for the king's marriage to be the best possible marriage might be worth a great deal of trouble, the replacing (even more than once) of one match by another: for subjects the important thing was that marriages should stay made, that there should be no chopping and changing. And for us the principal interest of the statute is its language, "the mere<sup>3</sup> jurisdiction and legal power", the parliamentary enforcement of God's law and brushing aside of sophistication imposed on it.

There was another act of this session dealing more directly and largely with religion, of much the same tendency: the king, said the preamble,<sup>4</sup> considered that nothing so much troubles a commonwealth as diversity of opinion, especially about God and his religion, and that divers heresies were creeping in from foreign parts, bringing danger of sedition and indeed of damnation, so he had appointed<sup>5</sup> the archbishops, bishops, and best theologians to declare, "according to the very gospel and law of God, the principal articles of our faith... and also for the lawful rites ceremonies and observations of God's service"; but such high and godly things could not be quickly determined, or

<sup>1</sup> Probably, cf. p. 288 above.

<sup>2</sup> Catharine Howard.

<sup>3</sup> I.e. chemically pure, jurisdiction and nothing else.

<sup>4</sup> 32 H. VIII c. 26.

<sup>5</sup> Cf. p. 428 above: and *L. and P.* xiv (2), no. 400, Aug. 1539, Geo. Constantyne's opinion that Winchester was "the wittiest the boldest and the best learned of his faculty" but of "very corrupt judgement", and that Durham did more harm by his "stillness soberness and subtlety" and was a strange man to have been backed by Cromwell: by such bishops came nothing but "translatio imperii, so that they make of the King as it were a pope". And cf. xv, 697, Marillac, 21 May 1540, "the ministers say a book will shortly be issued under authority of Parliament, in which will be determined all that is to be held in religion; not according to the doctrines of the Germans or of the Pope, but of the ancient Councils of the Church; by which the King shall be known, and known to Francis, as a searcher and lover of truth only".

restricted to any one session; and therefore it was enacted that every definition and decree "according to God's word and Christ's gospel by his majesty's advice and confirmation by his letters patent under his grace's great seal", made by the said clerics or others of royal appointment or by the whole clergy of England, should be believed, obeyed, and performed on the penalties therein prescribed, as if expressly declared in the statute, provided always that nothing ordained or provided by this act should be repugnant to the laws and statutes of the realm.

## CHAPTER XXI

### BISHOPS AND HERETICS, COUNCIL, FERRERS

It was God's word that made the truth, and doctors of divinity who declared it, and the high court of parliament that protected it with all the penalties which the material organisation of the kingdom could inflict: but this king was an old king and a masterful man, what his bishops<sup>1</sup> defined and his parliaments enforced would pretty largely represent his mind. This was all the more so because of the procedure adopted, which was, for instance, to send<sup>2</sup> a set of seventeen questions about sacramental validity and episcopal authority to be answered separately. Little wonder that the archbishop of Canterbury put a postscript, "This is mine opinion and sentence at this present, which I do not temerariouſly define, and do remit the judgement thereof as wholly unto your majesty:"<sup>3</sup> and the bishop of London,<sup>4</sup> "Ita mihi Edmundo Londoniensi episcopo pro hoc tempore dicendum videtur, salvo judicio melius sententiae cui me prompte et humiliter subſcribo": and the provost of King's, "Opiniones non assertiones". Nor is it surprising to find Cranmer's opinion that "all christian princes have committed unto them immediately of God the whole cure of all their subjects, as well concerning the administration of God's word for the cure of souls, as concerning the ministration of things political, civil governance", and that all ministers, ecclesiastical as well as civil, "be appointed, assigned, and elected in every place, by the laws and orders of kings and princes".<sup>5</sup> At about the same time was being published Cranmer's preface<sup>6</sup> to the Bible,<sup>7</sup> with its arguments from John

<sup>1</sup> Cf. Gardiner's complaint against Barnes's sermon with its puns on gardeners and weeds—"a Bishop of the realm, as I was, so reviled": *Declaration of Such True Articles as G. Joye . . .*, fol. xi. Cf. p. 425 above.

<sup>2</sup> J. E. Cox, *Cranmer's Miscellaneous Writings* (Parker Soc.), p. 115, says between Sept. 17 and Dec. 29, 1540: *L. and P.* xv, no. 826, says in June.

<sup>3</sup> Cox, p. 117.

<sup>4</sup> Bonner; xv, no. 826, for him and George Day.

<sup>5</sup> Cox, p. 116, Burnet, iv, p. 467.

<sup>6</sup> Cox, p. 118, who says it was prepared in 1539 and published in April 1540. In May 1541 a royal proclamation denounced penalties against every parish not having a bible of the greatest volume, Burnet, i, p. 479 and iv, p. 507; Wilkins, iii, p. 856. Cf. p. 451 below, pp. 390-6 above.

<sup>7</sup> The "Great Bible", cf. above, p. 396.



Chrysostom for the utility of the scriptures in the vulgar tongue, "specially now that the king's highness, being supreme head under Christ of this church of England, hath approved with his royal assent the setting forth hereof, which only<sup>1</sup> to all true and obedient subjects ought to be a sufficient reason for the allowance of the same". Henry may sometimes have been surprised at his own moderation, keeping a line between the ecclesiastical power which he had and which bishops derived from him and the spiritual authority which flowed from ordination: it was the former only which royal commissions granted to bishops, as bishops admitted by accepting them:

seeing that all jurisdictional authority, and every sort of jurisdiction, as much what is called 'ecclesiastical as secular, has its first rise from the royal power as from the supreme head, and source and fount of all magistrates within our kingdom, certainly it should be gratefully recognised by those who formerly exercised such jurisdiction only on sufferance, that this benefit has thus been bestowed of royal liberality, and should be accounted to the royal munificence alone, and this should be willingly recognised as often as his majesty thinks fit.<sup>2</sup>

The commission went on to explain what was meant by jurisdiction—admitting and extruding vicars and curates, approving wills, visiting the chapter and diocese, judging and punishing ecclesiastical offences, "over and above those things which are recognised from holy scripture to have been divinely committed to you".<sup>3</sup>

Perhaps Cranmer and some others would have gone further,<sup>4</sup> but after Cromwell's death there was no one driving on, Henry met no practical occasion for pushing further his royal supremacy, and the very tractability of his primate reduced the temptation: such were the factors (and Henry's own right judgment, unless it be held that by now

<sup>1</sup> By itself alone.

<sup>2</sup> From the commission to Bonner as bishop of London, Nov. 1539, Burnet, iv, p. 411: my translation.

<sup>3</sup> Pp. 412, 413: cf. p. 335, the opinion of Cranmer and eight other bishops, and p. 336, the declaration of Cromwell, two archbishops, eleven bishops, and twenty-four divines.

<sup>4</sup> See Burnet, iv, pp. 461 (Cranmer not finding any scriptural warrant for ordination as a sacrament), 471 (bishop and priest one office at the beginning), 475 (princes may make priests under special circumstances), 478 (consecration unnecessary), 481 (princes may preach and teach), etc.

he was so far wrong as to have no capacity of rightness) which limited the expansion of headship, much more than the fact that after Cromwell's death on the whole the conservative party was in the ascendant, in relation, that is, to other parties, for in relation to the king there never had been, and there was now much less than ever, anything but subordination. Cromwell had no successor. Henry did not have again any grand vizier, or superintendent of all administration and confidant of all policy. Gardiner<sup>1</sup> at once became a principal councillor, managed the collection of the subsidy, had his pupil Paget appointed clerk of the council, and went off to Germany to improve English relations with the emperor.<sup>2</sup> The council as a body did more supervisory work, it began more to resemble a corporation, to keep minutes<sup>3</sup> for instance. It is not meant to imply that there had never been any record of council proceedings before: but for a very long time there had been no register.<sup>4</sup> The new series began with a list of "his Highnes Pryvey Counsaill".<sup>5</sup> This list contained nineteen names, all of high officials, except Hertford, the king's brother-in-law, and the bishops of Durham and Winchester, eminent respectively for knowledge of the civil and of the canon law: this composition was much what it had been in 1526, at the time of the Eltham Ordinances, and continued unchanged, hardly more than re-adjusted, till the end of the reign.<sup>6</sup>

There was no doubt about its being The Privy Council<sup>7</sup> now, and

<sup>1</sup> Even when Cromwell was only tottering, Marillac had reported the recall of those who were dismissed by his means, among others Winchester, Durham and (?) Bath "are now summoned to the Privy Council", *L. and P.* x, no. 486, 10 April 1540.

<sup>2</sup> Muller, p. 95.

<sup>3</sup> Cf. H. Nicolas, *Proceedings and Ordinances of the Privy Council*, vii, pp. 3 and 4. Cf. A. F. Pollard, in the *Inst. Hist. Res. Bul.* v, p. 23, about the council register on a more systematic scale than ever before.

<sup>4</sup> Cf. Nicolas, vii, p. 1.

<sup>5</sup> Nicolas, vii, p. 3.

<sup>6</sup> Nicolas, vii, p. viii; Dasent, i, pp. xiii-xv.

<sup>7</sup> Though the Privy Council might still be in two places at once, cf. below, p. 449, n. 1; and cf. e.g. *L. and P.* xviii (2), no. 508, minute from the Privy Council at Westminster (signed Wriothesley, Essex, Westminster, Browne, Petre) "to the Privie Counsell at Callys", Hertford, Winchester, and Wotton, 31 Oct. 1544; and John Uvedale could still be sent north, to be secretary and privy councillor *there*, xvii, no. 578, 8 August 1542. And instead of *privy*, the word might still be *secret*, or *intimate*, or *estroit*. And the well-informed could still use the title loosely, e.g. Hooper writing to Bullinger (*Original Letters*, i, p. 33), 27 Jan. 1546, on the state of religion in England, and the recent death of half a dozen zealous defenders, including

more and more that was what it was called:<sup>1</sup> and its own clerk<sup>2</sup> entered after each meeting such of its proceedings as it chose to have recorded: but, naturally, the more important they were the less likely were they to be so chosen. The new formalisation of council followed the fall of Cromwell, as something of the same sort had followed the fall of Wolsey:<sup>3</sup> the want of a prime minister meant more routine and more not quite first-rate work for the privy council, but it also meant more even than before royal taking of all first-rate decisions, and royal short-circuiting of council to deal with individual ministers, picked on each occasion at the royal whim: it is not surprising that "important business was sometimes transacted by it, of which no record was kept", and that "the King himself never appears to have been present when any of the proceedings entered in the Register took place; and though the Council is occasionally said to have been 'with the King', that circumstance seems to be stated as a reason for nothing being registered on that day".<sup>4</sup> Most of the entries were about national defence and about commercial and financial regulation.<sup>5</sup>

Nicolas's remark just quoted must not be taken to prove that Henry was not present at meetings that were recorded, only that his presence was likely to imply specially weighty and confidential business, not to be trusted to paper. The king was present often enough for his absence to be noted as a reason for the council's not sitting.<sup>6</sup>

The council with the king (though he was not necessarily in the Baynton and Butts, "All these were of the Privy Council". Sir Julius Caesar, writing in 1597, asserted that it "since 33 H. 8 hath been called commonly the K.'s P. Counsell", quoted I. S. Leadam, *Requests*, p. xxviii.

<sup>1</sup> Cf. *L. and P.* vol. xvi passim for forms of address; and cf. xvi, no. 196 (*S.P.* viii, p. 456), Henry VIII to Pate, 25 Oct. 1540, instructing him to tell Van Dick he had written to a great friend, one of the King's Council (though not of the Privy Council) and intimate with the King's near councillors and such as were about him: and cf. *L. and P.* xx (1), no. 587, Wotton (on embassy at Antwerp) to the Council, 27 April 1545, about a learned Dr Hermes "of the Privy Council, as they call it here, but not as we call it, for that that we call the Privy Council they call (as I take it) le Conseil d'Estat".

<sup>2</sup> Dasent, *Acts of the Privy Council*, I, p. xv.

<sup>3</sup> Cf. above, p. 140.

<sup>4</sup> Nicolas, vii, p. xiii, cf. pp. xii, xiv; and cf. *L. and P.* xix (1), nos. 691, 919.

<sup>5</sup> Dasent, I, p. xviii.

<sup>6</sup> Dasent, I, p. 61, 6-9 Dec. 1542: on the 10th Henry returned to Hampton Court, and the council sat.

room with it at every meeting), the privy councillors in attendance at court, continued to be, became more than ever, the master, under the king, of all other conciliar entities. It maintained a constant correspondence with the council in London,<sup>1</sup> and at the first united meeting after any considerable separation reported its recent proceedings.<sup>2</sup> It was to the proceedings of the councillors at court that the register properly belonged, though on special occasions they might be afforded with "the rest of the Council about London",<sup>3</sup> and though of course they themselves might be at Westminster, or might even sit in the Star Chamber.<sup>4</sup> They might meet daily for months on end,<sup>5</sup> and there was no branch of policy or administration they might not have to deal with: on the other hand, there was none they might claim to deal with, and if as the king got old and ill they had more to do, left less of the administration to the council in London,<sup>6</sup> were more called on for instruction about policy by the council in London,<sup>7</sup> they knew that the king was more than ever keeping policy to himself,<sup>8</sup> that any direction from them required the king's stamp,<sup>9</sup> literally it might be, if not the signatures of enough of them<sup>10</sup> to carry conviction and bear responsibility: no longer could one name carry the weight, as Wolsey's might have, or Cromwell's. But the secretary, as especially and professionally the king's representative and agent, was the man whose name would do most, for it would cover himself and the king and the council or any one or two of them, and he could be addressed when

<sup>1</sup> E.g. *L. and P.* xvi, no. 1184. And with the Council with the Queen, very definitely composed and empowered, when the King went to France, xix (1), no. 864, 17 July 1544.

<sup>2</sup> Nicolas, vii, pp. x and xi, and *L. and P.* passim, e.g. xvi, no. 1310.

<sup>3</sup> *L. and P.* xvi, no. 334, 17 Dec. 1540. Cf. Nicolas, vii, p. xix, 11 Nov. 1541, assembling the counsellors of all sorts for the business of Catharine Howard.

<sup>4</sup> Dasent, i, pp. 275, 279, Dec. 1545; *L. and P.* xvi, no. 932.

<sup>5</sup> *L. and P.* xvi, no. 763.

<sup>6</sup> Nos. 1205, 1246.

<sup>7</sup> E.g. xviii (1), no. 746, 21 June 1543.

<sup>8</sup> A letter from the king's secretary was just as authoritative as one from his council, e.g. xix (1), no. 691.

<sup>9</sup> In the years 1540-2 it was used on council documents at least forty-eight times: cf. *E.H.R.* xliii (art. L. W. Labbarea and R. E. Moody), p. 192 n.: cf. Nicolas, pp. 208-10, 351, 165-6 for the use of the signet.

<sup>10</sup> E.g. *L. and P.* xvii, no. 571, and cf. xvi, no. 1174, and xviii (2), no. 487.

any of them were aimed at, and sometimes could decide how far a communication so addressed should go.<sup>1</sup>

The Privy Council was indeed acquiring "a truly executive position. With greater and greater frequency governmental action took place directly upon the council's orders without the interposition of instruments under the Great Seal, the privy seal, or the signet. Conciliar documents, whether letters from the council or orders in council, increased in number during this period; hence it is only natural to find that there was a corresponding development in the formality of sealing them".<sup>2</sup> But the executive position that was being acquired was merely a convenience for the king, would have no independence or internal principle of growth as long as Henry lived, and was not to crystallise into the creation of a council seal until years after his death.<sup>3</sup>

To return to the narrative after Cromwell's fall: Norfolk, as much as any other individual councillor or more perhaps than any but Gardiner, picked up a little of Cromwell's heritage, but it was not much. Cranmer was in a way one of the beaten side, but if he were not for the future very important in policy or administration, the truth was that he never had been that, but it was also true that he remained the man whom the king most respected, and whom the king continued to like and to support through every factious intrigue and political variation. The destruction of the great radical (for Cromwell deserved that title if ever any one did) made no very great or sudden, or permanent, change, except in foreign policy. In the early months of the year 1541 such trusted servants of Henry's (and Cromwell's) as Wriothesley, Sadler, Wallop, and Wyatt were in disfavour, all but the first even in the Tower for a time, but already before January was over Wriothesley and Sadler were attending the council again, and on March 21 Wallop and Wyatt received pardons. The attacks were not simply anti-Cromwellian, for Wallop seems to have been rather on the conservative side, and certainly so was Pate, who on being recalled from

<sup>1</sup> Cf. e.g. *L. and P.* xx (1), nos. 826, 835, 1086, May to July 1545, and xxi (1), no. 587, 12 April 1546; no. 1439, 9 August 1546.

<sup>2</sup> Labbaree and Moody, *E.H.R.* XLIII, p. 194.

<sup>3</sup> Cf. same reference, and see following pages for the later uses and results of the seal.

his German embassy fled to Rome. The main inference seems to be the arbitrary masterfulness of Henry in all political matters, and the defencelessness of his servants.<sup>1</sup>

In March it was rumoured that Henry was estranged from Catharine Howard,<sup>2</sup> and that he sometimes reproached his ministers "with Cromwell's death, saying that upon light prettexts, by false accusations, they made him put to death the most faithful servant he ever had".<sup>3</sup> In May 1541 the Cromwellian Injunctions<sup>4</sup> were reinforced. In July Cranmer drafted<sup>5</sup> and the king issued<sup>6</sup> a proclamation restoring the feasts of Luke and Mark and Mary Magdalene, abrogating as many more, and forbidding certain "childish superstitions... still used in divers places... children being apparelled to counterfeit priests bishops and women",<sup>7</sup> and so on. In October Cranmer was enforcing Henry's letters missive against shrines and reliquaries.<sup>8</sup> A reformed breviary was printed.<sup>9</sup> There seems to have been plenty of agreement between king and primate, except for the Supreme Head's insistence upon clerical celibacy.<sup>10</sup>

In April there was a recrudescence of trouble in the north, with several features uglily reminiscent of 1536:<sup>11</sup> the most prominent person implicated was a Neville, and was steward of Darcy's lands: there were dangers from Scotland and Ireland and France: the conspiracy hardly got as far as a rising, and the leaders were easily enough dispatched. But the king felt that that was not enough, that he himself must go

<sup>1</sup> Cf. *L. and P.* xvi, p. xxiv, and nos. 461, 466, 469, 470, 488, 639, 640, 641, and A. F. Pollard, *Henry VIII*, p. 402.

<sup>2</sup> xvi, no. 1328, Chapuys writing eight months later.

<sup>3</sup> No. 590, Marillac to Montmorency, 3 March.

<sup>4</sup> Of September 1538, cf. pp. 300, 396, 445 above. Cf. xvi, p. li, for the establishment in 1541 of the sees of Westminster (Thirlby), Bristol, Chester, Gloucester (Wakeman), Peterborough (Chambers), and Oxford.

<sup>5</sup> xvi, no. 978.

<sup>6</sup> Nos. 1019, 1022, 1028: the quotation is from no. 1022: n.b. the correspondence between the council with the king and the council in London.

<sup>7</sup> Resembling "rather the unlawful superstition of gentility than the pure and sincere religion of Christ", Wilkins, III, p. 859.

<sup>8</sup> Nos. 1233, 1262.

<sup>9</sup> J. H. Blunt, *Reformation of the Church of England* (1882), p. 496, where he speaks of various revisions and translations of breviary, missal, and psalter since 1516.

<sup>10</sup> No. 737.

<sup>11</sup> Cf. xvi, pp. xxxiii ff.

## 452 *Executions of Leonard Gray and Dacre of the South, 1541*

north, and apparently also that it would be salutary to leave terror in the south. Old Lady Salisbury was still in the Tower, under attain, and now (8 May 1541) her head was hacked off,<sup>1</sup> and that was "the last of the right line and name, of Plantagenet".<sup>2</sup> In June Leonard Gray was executed, after a brief trial before a jury of "knights, because a lord of name but no lord of the parliament", for his conduct as lieutenant of Ireland.<sup>3</sup> A day or two after his trial Lord Dacre of the South was arraigned before his peers and the high steward: the charge was that in an attempt to hunt on another man's land he had committed a murder. His accomplices were first convicted, and then "the lords Chancellor, Sussex, Hertford, Admiral, Durham, and St John, with Mr Baker, consulted in the Star Chamber upon lord Dacre's case. They made conscience to find him guilty of murder, and sent for the indictment twice or thrice, and would rather have used some means to make him confess". Later again, at the Star Chamber, were "all the lords, to the number of seventeen, assembled for a conference touching the lord Dacre's case; for the lord Lisle<sup>4</sup> came not forth to-day. To Council they went, and had with them there the Chief Justices, with other of the king's learned counsel", and although Paget was shut out he heard much of what was said, and how some could not agree to a finding of wilful murder. "Suddenly and softly they agreed, I wot not how, and departed to the King's Bench together": where at first Dacre defended himself on the ground of intention, but "afterward, by an inducement of the confession of the rest already condemned, declared unto him by the judge, he refused his trial and, upon hope of grace (as I took it), confessed the indictment".<sup>5</sup> So he was hanged and his companions, "and great moan was made for them all".<sup>6</sup> The twentieth-century

<sup>1</sup> *L. and P.* xvi, p. xxxv.

<sup>2</sup> Hall, II, p. 312.

<sup>3</sup> He was brother to the late marquess of Dorset: the quotation is from Hall, II, p. 312. Gray tried first to shelter behind the consent of the council, but finally confessed to the whole indictment, xvi, no. 932.

<sup>4</sup> Late deputy of Calais: he escaped trial, and died in the Tower next year, it is said for joy at a pardon: xvi, p. xxxvi.

<sup>5</sup> The quotations are from xvi, no. 932, Paget to Wriothesley, the one about making conscience in Gairdner's paraphrase, the other three in his orthography.

<sup>6</sup> Hall, II, p. 312: Wriothesley, I, p. 126, tells how the people hoped that the king would pardon Dacre.

reader may be shocked at this sort of lobbying, and use of confessions, but he must ask himself whether what shocked the sixteenth century was not the execution of a nobleman and several gentlemen (one of them "as witty and toward as any in the realm")<sup>1</sup> for the slaughter of "a simple man",<sup>2</sup> and whether the conduct punished was not pretty shocking too. Certainly Henry had not twentieth-century notions about peace and quiet, and one law for all, and the manners proper to noblemen: but certainly he meant his noblemen to be tame, and perhaps he was not sorry the nobility should feel that Cromwell's death was no release for them.

There was some mercy, however; young Henry Pole, son of lord Montague,<sup>3</sup> and Edward Courtenay, son of the marquess of Exeter, were thought, very reasonably, to be in danger at this time, but survived. Sir Edmund Knyvett, for an assault within the court, "was condemned to have lost his hand that he struck with: the king's master cook ready with his knife to have done the execution", when the royal order to stay came, "and then the officers of the household sat again and then the king pardoned him".<sup>4</sup> The nobility, the court, the south in general (and Calais too, whence one Harvey, a priest, had been fetched to die for treason)<sup>5</sup> had had lesson enough. And Henry was moving north, to deal with that country, and Scotland, and Ireland.

Since the middle of April the intention of a royal progress northward had been known to the public.<sup>6</sup> Five weeks later the earls of Cumberland and Westmorland were directed to set going secretly the mobilisation plans drawn by the duke of Norfolk, the council stating no

<sup>1</sup> Mantell: *Hall*, II, p. 313. Would not the twentieth-century be shocked at the hanging of a sporting peer and a smart novelist for killing a poor man with a motor-car on the way to a cock-fight?

<sup>2</sup> *Hall*, II, p. 313: cf. the indictment, XVI, no. 931.

<sup>3</sup> Cf. p. 401 above.

<sup>4</sup> Wriothesley, I, p. 125: and proclamation was made that the penalty would be exacted in future. In June 1541 two of the king's guard were hanged at Greenwich for robbery. In November 1542 "Collins, gentleman, was hanged in Westminster Palace for killing one in the same place": Wriothesley, I, p. 137.

<sup>5</sup> Cf. Wriothesley, I, p. 126: *L. and P.* XVI, nos. 518, 843, 973; Harvey was hanged on July 30, and a knight of Rhodes called Gunston on the 12th. It looks as if their treason had been denial of the royal supremacy.

<sup>6</sup> XVI, no. 733.



reason, the king alleging Scotch aggression.<sup>1</sup> A few days later (26 May 1541) the imperial and French ambassadors heard that the king was going with five thousand horse.<sup>2</sup> But it was not till the last day of June that he started, and then the weather was so bad and travel so difficult that he did not reach Lincoln till August 12,<sup>3</sup> nor York till the middle of September. The northern gentlemen flocked to make their submission, "confessing their offence and thanking the king for his pardon", and making considerable presents of money,<sup>4</sup> and it was proclaimed that any one in those parts grieved "for lack of justice from the Council resident in York or any other might have free access to the King and Council and favourable audience".<sup>5</sup> In one respect the journey was a failure, for Henry did not get his meeting with his nephew of Scotland, and on September 27 Henry left York for the south again.<sup>6</sup> At any rate, he could be pleased with the north, and in Ireland too things were going very well.<sup>7</sup>

It was nearer home that trouble lay. On 2 November 1541<sup>8</sup> Cranmer, after consulting Wriothesley and Hertford, handed to the king a paper containing the charges of one Lassels against the queen, how she had frequently miscondacted herself with Francis Dereham and Edward Mannock.<sup>9</sup> For a day or two Henry did nothing, and then authorised the archbishop of Canterbury, the lord privy seal, the lord admiral,<sup>10</sup>

<sup>1</sup> *L. and P.* xvi, nos. 842, 843.

<sup>2</sup> Nos. 864, 868.

<sup>3</sup> Pp. xxxvii, xliii.

<sup>4</sup> Hall, II, p. 313: Hall enumerates £2260: this seems rather to make nonsense of Chapuys' (no. 864) suggestion that the king went north partly "that the money spent may remain in the country", and of Gairdner's that (p. xxxvii) he gained popularity by presents of venison. The Council of the North reported on August 15 (xvi, no. 1099) that they found every one most ready to pay the benevolence: cf. no. 1130, Marillac, how the Yorkshire gentlemen who had remained faithful were praised, and the others knelt, and one "made a long harangue confessing their treason in marching against their Sovereign and his Council".

<sup>5</sup> xvi, no. 1190: the consequent complainants do not seem to have gained much, cf. nos. 1191, 1192.

<sup>6</sup> No. 1211.

<sup>7</sup> P. lv.

<sup>8</sup> Cf. p. 440 above, and Nicolas, VII, pp. 352-6, letter from the council, signed Audley, Southampton, Gardiner, Hertford, Sussex, Ant. Wingfield, explaining to Paget, ambassador in France, Cranmer's subsequent action.

<sup>9</sup> xvi, no. 1334. Cf. Nicolas, VII, pp. 17, 21, council consulting king about the Windsor prisoner who had spoken unfitting words of the queen.

<sup>10</sup> William Fitzwilliam earl of Southampton, and Seymour earl of Hertford.

Sir Thomas Wriothesley, and Sir Anthony Browne to make enquiries. Dereham and Mannock made no difficulty, and Catharine not much more, about confessing gross improprieties, and in Dereham's case fornication before the queen's marriage, but there was no admission of adultery afterwards: on the other hand, with Dereham there had been something in the nature of an engagement, which physical consummation might be held to have made into a pre-contract incapacitating Catharine from contracting a legitimate union.<sup>1</sup> On November 11 seven councillors with the king signed a letter to Cranmer and his colleagues directing the continuance of their enquiries and the reduction of Catharine's household. Moreover, the next day the lord chancellor, assembling all the king's councillors spiritual and temporal, judges and learned counsel, was to declare to them the abominable demeanour of the queen, but without mentioning any pre-contract.<sup>2</sup> This was done in the Star Chamber, and directions were given for examining Catharine's cousin Thomas Culpepper, with whom also there had been some talk of an engagement, and for informing English ambassadors abroad.<sup>3</sup> The new evidence<sup>4</sup> implicated Lady Rochford<sup>5</sup> as a go-between, and indicated a strong probability of Catharine's adultery with Culpepper since her marriage.

At the end of November Dereham and Culpepper were indicted of high treason by grand juries of the counties where their offences were alleged, and on December 1 they were tried at the Guildhall of London and condemned to be hanged.<sup>6</sup> On the 10th they were both executed.<sup>7</sup> The old duchess of Norfolk,<sup>8</sup> and a dozen of her relatives and servants,

<sup>1</sup> Nos. 1321, 1325: Catharine's confession is in Burnet, vi, p. 249.

<sup>2</sup> No. 1331.

<sup>3</sup> Nos. 1333, 1334: 1348, 1342 and 1366 Marillac's account, 1359 that of Chapuys, who had been back in England since the middle of 1540, and by the end of 1541 was complaining of the climate and expense and asking for recall.

<sup>4</sup> Nos. 1336-49, especially 1338 and 1339.

<sup>5</sup> Widow of Anne Boleyn's brother George.

<sup>6</sup> No. 1395. It was alleged (with reason, see Catharine's confession and Chapuys' account below) that Catharine and Dereham ought to have revealed their contract, and that they pleaded it as an excuse for their intimacy. See also no. 1401, Chapuys' account of the trial, and of how Lady Rochford's was postponed because she went out of her mind.

<sup>7</sup> Wriothesley, i, p. 132; Hall, *Henry VIII*, II, p. 313; *L. and P.* xvi, no. 1441.

<sup>8</sup> Catharine's grand-mother, and step-mother of the then duke.

and others, were imprisoned, and on December 22 a dozen of them were sentenced for misprision of treason to loss of liberty and goods.<sup>1</sup> The old duchess,<sup>2</sup> Lady Bridgewater, Lady Rochford, and the queen awaited attainder.

Parliament met on 16 January 1542, the incumbents of four new bishoprics<sup>3</sup> being present. The king himself came as soon as the roll had been called, and the chancellor began a very long speech by congratulating the company on the quality of their prince, how good, how wise, how circumspect and provident: and whenever he mentioned the royal majesty, as happened often, all bowed in approval of his praises, in gratitude to God, and in prayer for Henry's life. God, the chancellor said, had anointed Henry with wisdom above his ancestors and above all other kings—theological wisdom, as was shown by the overthrow of the Roman Goliath; military wisdom, as the French and Scots well knew; and political wisdom, which had given England thirty years of peace in a war-torn world. Now, too, the fierce and barbarous Irish were reduced to order. Parliament had been called not for the sake of individuals or of the separate estates but that as it were the whole body of the English commonwealth might be there, so that by the counsel of all and by his majesty's authority defects might be supplied and abuses removed: first, to the glory of God and by way of unity of faith: secondly, by good economy, the laws being kept, the poor protected, valiant beggars set to work, and food sold reasonably: thirdly, since human nature is an ingenious inventor of ill, by establishing new laws where there were new evils, considering the circumstances of crimes and qualities of persons, since injury was all the more reprehensible if coming from a friend or familiar.<sup>4</sup>

That day and the next the lords did nothing but adjourn: on the third the commons presented as their speaker Thomas Moyle, who

<sup>1</sup> *L. and P.* xvi, nos. 1470, 1471, and other references on p. xlvi.

<sup>2</sup> According to *D.N.B.* ('Catharine Howard', Gairdner, quoting Miss Strickland) she stayed in the Tower till May 1542 and was then pardoned; *D.N.B.* also says the evidence against Dereham and Culpepper, their own and others, was elicited partly by torture, but does not give references.

<sup>3</sup> Westminster, Chester, Peterborough, Gloucester: Burnet, I, p. 494.

<sup>4</sup> *L.J.* I, p. 165.

protested his incompetence but was overruled by the king, who had (he said) employed him in that house and overseas, and never known him fail in ability or diligence. Then the speaker praised the king, and begged that in speaking their opinions they might each with freedom and impunity express their minds and counsels; and in the name of the commons he sought access to the royal person, in causes more complicated and grave than they could finish off among themselves.

The king by his chancellor replied, giving all the glory to God though owning to some pleasure that all his zeal and care were not wasted on an ungrateful people: and lastly, the royal majesty did not deny honest liberty of speaking, as well as access to his person, according to usage, so however that they might be satisfied for such complicated causes to be signified to him not by the whole multitude but by some few of the more sagacious. "*Atque hoc Responsum Communes per omnia maxima cum reverentia acceperunt.*"<sup>1</sup>

And on the fourth day was read for the first time a bill attainting of treason Catharine Howard and Lady Rochford, and of misprision the duchess of Norfolk, Lord William Howard, and others: no more was heard of it for a week, and then the chancellor explained how careful they ought to be, the queen being a high and public personage, whose trial ought to be safe from every risk of suspicion or recrimination: so he suggested that some of the principal men, commons as well as lords, should be a delegation to the queen, to assure her that the king was gracious and the laws just, at best to hear her justification and at least to bring the king whatever answer might be true. Accordingly, Canterbury, Suffolk, Southampton, and Westminster were chosen for the purpose, if the king should approve.<sup>2</sup>

Two days later the chancellor explained why this committee had not acted. First, it would be well to beseech his majesty to consult his wonted wisdom, perpending the mutability of human things and the frailty of human nature, remembering how the whole state of the

<sup>1</sup> *L.J.* I, p. 167.

<sup>2</sup> *P.* 171. According to Chapuys (*L. and P.* xvii, no. 124) Catharine refused the king's offer, through certain councillors and others of the parliament, that she might defend her own case in parliament.

kingdom depended on him, that so he might put off his anxiety and depression. Secondly, that the attainders of Culpepper and Dereham might be confirmed by royal assent and authority of parliament. Thirdly, that the judgment of parliament might be free to finish the case. Fourthly, that the king might give his consent not in the usual form but in absence, by his letters patent, lest the necessity of participation in a public ceremony should renew his grief. Lastly, that there should be indemnity for any one speaking with illegal freedom of the queen.<sup>1</sup> The same committee as before was authorised to address the king in this sense.

It reported (31 Jan. 1542) his majesty's unheard-of kindness in accepting its proposals. He had also addressed a committee of the commons, who had presumably submitted their own suggestions, and then both committees together, admonishing them to establish good laws and see to the right keeping of laws, and every member to cherish the absent multitude: in the past too often half of the members thought only of their own bills, and the other half only of theirs, and would not listen to each other's reasons, and so many good bills lacked the force of law.<sup>2</sup>

On February 6 the bill of attainder was read for the second time, and it is noted in the *Lords Journals* as having had a second reading again the next day:<sup>3</sup> on the 8th it was read a third time, and handed to the attorney-general for transmission to the commons. They wasted no time, for on the 11th the chancellor produced two statutes "concluded in the lords and in the commons",<sup>4</sup> of which this was one (and the other was for proceeding against traitors who had gone off their heads). Both were signed by the royal hand, with the royal assent under the great seal; which the chancellor showed, and the lords thought that the commons had better join them, so that "in the presence of each house and of the whole council of parliament the said statutes might receive the force and authority of law; which was done".<sup>4</sup>

Then the commons came in, and Suffolk explained, as was confirmed by Southampton, that the committee had performed the duty laid upon

<sup>1</sup> *L.J.* 1, p. 171.

<sup>3</sup> Pp. 174, 175: cf. *Henry VII*, p. 125.

<sup>2</sup> *P.* 172.

<sup>4</sup> *P.* 176: my translation.

it, and that the queen had confessed her crime and asked pardon for it, and the king's favour for her family, and permission to give some of her clothes to the maids who had remained with her. On 12 February 1542 Catharine, who had remained as cheerful as ever, and as imperious and elegant, was told that she must die next day: she only asked for permission, which was given, to practise with the headsman's block, and next morning, in the presence of almost the whole council,<sup>1</sup> she was executed on the same spot as her cousin Boleyn, and after her Lady Rochford, still in a kind of frenzy. Marillac reported that Catharine "was so weak that she could hardly speak, but confessed in few words that she had merited a hundred deaths": it was not yet "said who will be queen; but the common voice is that this king will not be long without a wife, for the great desire he has to have further issue".<sup>2</sup> An eye-witness wrote to his brother at Calais that he doubted not the queen and Lady Rochford were "with God, for they made the most godly and Christians' end that ever was heard tell of (I think) since the world's creation, uttering their lively faith in the blood of Christ only", and begging the people to be warned by "their worthy and just punishment with death, . . . by the laws of the realm and parliament, . . . and gladly obey the king in all things".<sup>3</sup>

The statute under which they suffered<sup>4</sup> was in the form of a request to the king from his most high court of parliament: it recited how Catharine since her marriage had taken Dereham into her service and often been in private with him; how besides, with the help of Lady Rochford, she had received in a vile place and an undue hour Thomas Culpepper: so the king was begged to grant that the attainder of those who had suffered might be approved by authority of parliament, and Catharine and Lady Rochford be attainted and punished likewise: nor ought execution to be delayed till the end of the session, "most chiefly

<sup>1</sup> Norfolk was absent, and Suffolk, who was ill: cf. for all this sentence, *L. and P.* xvii, no. 124, Chapuys.

<sup>2</sup> xvii, no. 100: Chapuys (no. 124) thought Henry would not be in a hurry to marry again unless Parliament asked him to: he seems to have been friendly, and to have thought he was friendlier than he was, with William Paget clerk of the council, and to have got this from him.

<sup>3</sup> No. 106.

<sup>4</sup> 33 H. VIII c. 21.

called and summoned for other general causes", so the royal assent by letters patent was requested, and was declared to be and always to have been "of as good strength and force as though the king's person had been there personally present and had assented openly". At the same time the duchess of Norfolk and the countess of Bridgwater were indicted of misprision, and the similar convictions of the others were confirmed.<sup>1</sup> It was enacted also that any one knowing or suspecting any lightness in the queen for the time being should reveal it to his majesty or some of his Counsaill, and if they did not reveal it to some of his Counsaile resyante or attendaunt in that time on his royal person, then they should have like punishment as the offenders should. Finally, if the king or any of his successors should take a fancy to any woman in way of marriage, thinking her a pure and clean maid, when the proof may or shall after appear contrary, and she have coupled herself with her sovereign in marriage, without declaration of her unchaste life, that then every such offence shall be deemed high treason.<sup>2</sup> This last provision caused it to be said that no one would dare to marry Henry as a maid, and that he would have to take a widow next time:<sup>3</sup> when Catharine had been accused there were rumours that he might take back Anne of Cleves,<sup>4</sup> and she seems to have had some hope, but not for long. Henry seems to have shown more sorrow at the loss of Catharine than at that of any of her predecessors, perhaps like "the woman who cried more bitterly at the loss of her tenth husband than at the deaths of all the others together, though they had all been good men, but it was because she had never buried one of them before without being sure of the next".<sup>5</sup> Anyway, once the die was cast the king was in much better spirits, and during the last three days before Lent there was much feasting.<sup>6</sup>

This last matrimonial crisis does not seem to have much affected the

<sup>1</sup> Most of them were pardoned at once, and the rest soon: cf. *L. and P.* xvii, p. iii.

<sup>2</sup> And also incontinence of or with the king's wife or his heirs.

<sup>3</sup> Cf. p. 486 below.

<sup>4</sup> Cf. e.g. Marillac, xvi, no. 1332, 11 Nov. 1541: he thought she was more commiserated than Catharine of Aragon had ever been. Cf. also no. 1328, Chapuys.

<sup>5</sup> Chapuys, xvi, no. 1403.

<sup>6</sup> Chapuys, xvii, no. 124, 25 Feb. 1542.

relations of persons and policies. Norfolk trembled a little to see a second niece tread the red-rose path to the everlasting bonfire,<sup>1</sup> but he remained what he had been, a great noble and official whom the king used and tolerated, but whom the king might any day break, and who certainly could not bend the king. Gardiner had almost stronger ties with Catharine, whom he had chosen for his guest and helped to make into the catholic queen: yet so far from being embarrassed by her affair, he seems rather to have taken a leading part in the management of it,<sup>2</sup> and at the end of it to have found himself certainly not less versed than before in the king's councils, even if he was complacently exaggerating when he wrote five years later that in the Lent of 1542 Henry "accepted me to be with him in credit, as Granvelle was with the Emperor by the same terms",<sup>3</sup> and exaggerating jestingly when he said that his friends were surprised to hear one so busy in politics preach once that year.<sup>4</sup> Norfolk and Gardiner had the less weight since the one leant towards Francis and the other towards Charles: in June 1542 they were at war, and Henry leant to neither but only against Scotland.

Cranmer had certainly done the right thing, and as much in the right way as it admitted, but it was the sort of good deed most likely to provoke the beneficiary's hatred: yet the archbishop continued to be a regular attendant at council, and to have a large share of the king's confidence, to be able to repel all attacks and fully to hold his own in that field about which he cared most. But the general religious history of Henry's last five years, which is also the history of parties, must be postponed to some remarks on the act attainting Catharine and on the other work of that session.

The pre-contract with Dereham was not utilised at all: the argument for adultery, and consequently treason, was accepted and on that argument Catharine was put away, with no room for legal debate. It has

<sup>1</sup> Cf. *L. and P.* xvi, no. 1454.

<sup>2</sup> Cf. xvi, no. 1328: and no. 1457, when he was the spokesman of the council to tell the Cleves ambassador there was no hope of that marriage being re-made.

<sup>3</sup> I.e. prime minister. Muller, *Letters*, p. 354.

<sup>4</sup> Muller, p. 101: and p. 102 for S. Gardiner's influence on foreign policy, 103 his provisioning the army against Scotland and fostering alliance with the emperor, and then making peace with Scotland.



been suggested<sup>1</sup> that statute was necessary to free the king from the reproach of beheading a woman he had promised to pardon. It is not clear that he had promised more than to be merciful in return for candour, still less clear that there was not enough evidence outside confession to justify any rigour, least of all clear that Henry would have felt the need of any such cloaking. It seems rather that the whole statute, and indeed the whole session, is an eminent example of Henry's practice of magnifying parliament as his instrument and for his ends, of establishing in it notions and procedures which widened its competence and stimulated its self-consciousness, although (as shall be shown almost at once) he had no intention of encouraging any approach to independence.

The chancellor's speech<sup>2</sup> had recommended the members, if they found new evils to establish new laws, and Henry himself had talked in an almost twentieth-century way<sup>3</sup> of the desirability of a large output of statutes. About the force behind statutes, too, he used words which to a not very careful observer look altogether modern:<sup>4</sup> he had desired the presence of some of each of the three estates so that all the rest might be represented:<sup>5</sup> he had reminded members that their duty was to do the business of the commonwealth, each considering himself the patron of a multitude.<sup>6</sup> On the other hand, the motive of all this was very largely apologetic, to show that the session with all its inconveniences was necessitated not by the king's private exigencies but by the requirements of the state. So with freedom of speech too,<sup>7</sup> it was freedom for the commons to say what they liked to each other in their own meeting (and did it much matter what they said there?) and freedom to say anything elsewhere only by their wiser heads, on more serious business, to the king.

The procedure over the act of attainder is obscure. Why did it last from January 28 to February 11? Why were there two second readings? It is clear, anyway, that the co-operation of the commons was very deliberately secured and displayed. It is clear also that what was done

<sup>1</sup> E.g. by Gairdner in *D.N.B.*    <sup>2</sup> Cf. p. 456 above.

<sup>3</sup> Cf. p. 458 above.

<sup>4</sup> But also very medieval, with the medieval notion of attorneyship.

<sup>5</sup> Cf. p. 456 above.

<sup>6</sup> Cf. p. 458 above.

<sup>7</sup> Cf. p. 456 above.

was important for a court which was growing to be and to feel more and more like a legislature, much more important than the mere condemnation of a traitor, even of a traitorous queen. The declaration that the royal assent by commission was and always had been valid was a very high exercise of authority.<sup>1</sup> That method of assent was no doubt imposed by a masterful and offended king, a wounded lion: but it was an omission of the royal person from a high act of parliament, and that was a new principle, and a principle that might go far.

Of the other acts of this session, nearly a score were private,<sup>2</sup> and half as many were concerned in the ordinary way with economic regulation: chapter 10 endeavoured to make justices of peace more efficient in enforcing a variety of statutes, largely economic, exempting from duty such justices as "shall be of the king's Privy Council attendant upon his Royal Person":<sup>3</sup> a number of legal improvements were of a comparatively minor nature but show the way things were moving—for the punishment of those obtaining money by counterfeit letters or privy tokens,<sup>4</sup> for the trial of shedders of blood within the king's court before the household officers and by a household jury, for the trial wherever the king might appoint and not necessarily in the county where he offended of any one vehemently suspected after examination by the council or three of them of treason, misprision, or murder:<sup>5</sup> for this last the reasons alleged were the waste of the king's money and his council's time, and sometimes that of jurors, and also that sometimes "such offenders lie still in Prison and be forgotten whereby many times by help of their confederates they escape unpunished". Chapter 27 disallowed by-laws by which in any corporation a minority could prevent the grant of a lease: chapter 8 denounced the penalties of felony against users of charms and witchcraft, and chapter 14 against whoever should declare any prophecy of the king or any other person by the interpretation of their arms, badges, cognisances or names.

<sup>1</sup> Cf. pp. 458–9 above.

<sup>2</sup> E.g. naturalisation of various persons born abroad of English fathers but foreign mothers (c. 25).

<sup>3</sup> Or household official busy on the royal business.

<sup>4</sup> Cf. Wriothesley, I, p. 123, the two men hanged in 1541 for counterfeiting the Great Seal.

<sup>5</sup> Cc. 1, 12, 23.

Two other happenings in this parliament, which were not statutes, deserve attention. One is the case of George Ferrers,<sup>1</sup> and the other the solemn proclaiming (23 Jan. 1542) in the house of lords of Henry's new title—"by the grace of God, of England France and Ireland king, defender of the faith, and on earth of the church of England and of Ireland supreme head".<sup>2</sup> This title had a history which gave it more than nominal importance.

In 1540 and 1541 the Irish chiefs had been reduced to submission, and the most eminent of them accepted English peerages:<sup>3</sup> with few or no exceptions, moreover, they renounced the pope:<sup>4</sup> the price was heavy, but was paid largely with church property.<sup>5</sup> On 30 December 1540 the deputy and council of Ireland advised Henry to "take the title of king of Ireland, for the Irish have a foolish opinion that the bishop of Rome is king of Ireland",<sup>6</sup> and in June 1541 the Irish parliament passed a statute to that effect,<sup>7</sup> "joyously", the deputy said, and to the general joy,<sup>8</sup> and on July 7 the title was proclaimed in England also.<sup>9</sup> Yet Henry was only half pleased, and a fortnight later the council attendant upon him<sup>10</sup> wrote to the council resident in London that before altering the royal style the words of the Irish act should be carefully considered, for if it were couched "as though they gave this thing unto his Highness by a common consent of themselves", it would seem to be at their election and so derogate from the king's just title by inheritance and conquest. Perhaps Henry was thinking also of the papal grant to Henry II, which was used as one argument for his title in a paper<sup>11</sup> drawn up at this time, it is not clear by whom or for what purpose. Anyhow, the council in London replied with the statute "as it came hither under the seal of Ireland and as it was reformed by the king's learned counsel and remitted thither under the Great Seal, in which form

<sup>1</sup> Cf. p. 465 below.

<sup>2</sup> *L.J.* 1, p. 168: Wriothesley, 1, p. 132, notes that Henry was "proclaimed king of Ireland by the consent of the parliament both of this realm and also of Ireland...".

<sup>3</sup> *L. and P.* xvi, pp. liii, liv, nos. 459, 1072, 1097, 1285.

<sup>4</sup> Gairdner, *Lollardy*, II, p. 473, referring to the Carew MSS.

<sup>5</sup> *E.g.* xvii, no. 249.

<sup>6</sup> xvi, no. 367.

<sup>7</sup> No. 901.

<sup>8</sup> No. 926.

<sup>9</sup> No. 974.

<sup>10</sup> Then at Grafton on his way north, no. 1019.

<sup>11</sup> No. 927.

they take it now passed in Ireland".<sup>1</sup> Six weeks later (8 Sept. 1541) Henry wrote to the deputy and council in Dublin that the act was not couched in such plain terms as it should be, and so he sent it back, amended, to be newly passed. On 24 October 1541 they replied acquiescently, though not without insinuating that Irish facts did not always fit the most logical theories, and anticipated that the new title would be of great assistance to the revenue.<sup>2</sup> Three months later proclamation was made in the parliament at Westminster,<sup>3</sup> and throughout Henry's dominions,<sup>4</sup> and in April 1542<sup>5</sup> he informed the Irish authorities that he had adopted the new style and directed them to alter his seals accordingly: at the end of June the earl of Desmond came over and did homage to Henry "not as lord but as king of Ireland", and swore fealty.<sup>6</sup> St Leger<sup>7</sup> hoped now for great improvements in a country so long savage, through dissensions in England and negligence of governors: but nothing seems to have been done to extend civilised jurisdiction and equal law, and the mass of the people was far from grateful for violent ecclesiastical change imposed from outside in breach of local sentiment and tradition.

While Henry was perfecting a new title in Ireland, the house of commons in England was adding to its pretensions a claim which was as yet very incomplete but whose perfection was not far distant: this was the claim to independent jurisdiction, a claim as important as any, for it had to be made good before the lower house could formidably compete with the upper or with the crown. Not that it was as a competitor making claims that the lower house gained a great point in 1542: it was much more as a promising younger brother or a trusted inferior receiving encouragement: the gain proved all the richer in the end.

In the Lent season, whilst the parliament yet continued, one George Ferrers gentleman, servant to the king, being elected a burgess to the town of Plymouth . . . , in going to the parliament house was arrested in London by a process out of the King's Bench, at the suit of one

<sup>1</sup> *L. and P.* XVI, no. 1028.

<sup>2</sup> No. 1284.

<sup>3</sup> P. 372 above.

<sup>4</sup> XVII, no. 71 (22).

<sup>5</sup> The 14th, no. 249.

<sup>6</sup> No. 457, Marillac to Francis.

<sup>7</sup> The deputy, no. 1284

White, for the sum of two hundred marks or thereabouts, wherein he was late afore condemned, as a surety for the debt of one Weldon of Salisbury: which arrest being signified to Sir Thomas Moyle knight, then speaker. . . , and to the knights and burgesses there, order was taken that the serjeant of the parliament, called St John, should forthwith repair to the Counter in Bread Street (whither the said Ferrers was carried) and there demand delivery. . . .

The serjeant (as he had in charge) went to the Counter, and declared to the clerks there what he had in commandment. But they and other officers of the City were so far from obeying the said commandment, that after many stout words they forcibly resisted the said serjeant, whereof ensued a fray within the Counter gates, between the said Ferrers and the said officers, not without hurt of either part: so that the said serjeant was driven to defend himself with his mace of arms, and had the crown thereof broken. . . . During this brawl the sheriffs of London, called Rowland Hill and Henry Suckliffe, came thither, to whom the serjeant complained of this injury, and required of them the delivery of the said Burgess. . . . But they, bearing with their officers, made little account either of his complaint or of his message, rejecting the same contemptuously, with much proud language, so as the serjeant was forced to return without the prisoner, . . . and finding the speaker and all the burgesses set in their places, declared unto them the whole case. . . ; who took the same in so ill part that they all together (of whom there were not a few as well of the king's privy council as also of his privy chamber) would sit no longer without their burgess, but rose up wholly and repaired to the upper house, where the whole case was declared by the mouth of the Speaker, before Sir Thomas Audley knight then lord chancellor. . . and all the lords and judges there assembled; who, judging the contempt to be very great, referred the punishment thereof to the common house. They, returning to their places again, upon new debate of the case, took order that their serjeant should eftsoons repair to the sheriff of London and require delivery of the said burgess, without any writ or warrant had for the same, but only as afore.

And yet the lord chancellor offered there to grant a writ, which they of the common house refused, being in a clear opinion that all commandments and other acts of proceeding from the nether house were to be done and executed by their serjeant without writ, only by show of his mace, which was his warrant. But, before the serjeant's return into London, the sheriffs having intelligence how heinously the matter was taken, became somewhat more mild, so as upon the said second

demand they delivered the prisoner without any denial. But the serjeant, having then further in commandment from those of the nether house, charged the said sheriffs to appear personally on the morrow . . . before the Speaker . . . , and to bring thither the clerks of the Counter and such officers as were parties to the said affray, and in like manner to take into custody the said White, who wittingly procured the said arrest in contempt of the privilege of the parliament. . . .

Where, the Speaker charging them with their contempt and misdemeanour aforesaid, they were compelled to make immediate answer, without being admitted to any counsel. Albeit, Sir Roger Cholmeleie, then recorder of London, and other of the counsel of the City there present, offered to speak in the cause, which were all put to silence, and none suffered to speak but the parties themselves: whereupon, in conclusion, the said sheriffs and the same White were committed to the Tower of London, and the said clerk (which was the occasion of the affray) to a place there called Little Ease, and the officer of London which did the arrest, called Tailor, with four other officers to Newgate, where they remained from the 28th until the 30th of March 1542, and then they were delivered, not without humble suit made by the mayor of London and other their friends.<sup>1</sup>

And forsomuch as the said Ferrers, being in execution upon a condemnation of debt and set at large by privilege of parliament, was not by law to be brought again into execution, and so the party without remedy for his debt, as well against him as his principal debtor; after long debate of the same by the space of nine or ten days together, at last they resolved upon an act of parliament to be made, and to revive the execution of the said debt against the said Welden, which was principal debtor, and to discharge the said Ferrers. But before this came to pass, the common house was divided upon the question: howbeit in conclusion the act<sup>2</sup> passed for the said Ferrers, won by fourteen voices.

The king then, being advertised of all this proceeding, called immediately before him the lord chancellor of England and his judges, with the speaker of the parliament and other of the gravest persons of the nether house, to whom he declared his opinion to this effect. First commending their wisdoms in maintaining the privileges of their house (which he would not have to be infringed in any point), he alleged that

<sup>1</sup> All this is from Holinshed (edn. 1587), III, pp. 955-6, (edn. 1808), III, p. 824. Wriothesley (I, p. 135) says the humble suit was made on the 29th, "to the lords of the Parliament and to the Commons house". But White at least was not released by the commons but by the Privy Council, cf. p. 469, n. 2 below.

<sup>2</sup> It was not an act, because it never went to the lords.

he being head of the parliament and attending in his own person upon the business thereof, ought in reason to have privilege for him and all his servants attending there upon him. So that if the said Ferrers had been no burgess but only his servant,<sup>1</sup> yet in respect thereof he was to have his privilege as well as any other.

"For I understand (quoth he) that you not only for your own selves but also for your necessary servants . . . enjoy the said privilege, in so much as my lord chancellor here present hath informed us that he being<sup>2</sup> speaker of the parliament, the cook of the Temple was arrested in London, and in execution upon a statute of the Staple. And forsomuch as the said cook during all the parliament served the speaker in that office, he was taken out of execution by the privilege of the parliament. And further, we be informed by our judges that we at no time stand so highly in our estate royal as in the time of parliament, wherein we as head and you as members are conjoined and knit together into one body politic, so as whatsoever offence or injury (during that time) is offered to the meanest member of the house, is to be judged as done against our person and the whole court of parliament. Which prerogative of the court is so great (as our learned councell informeth us) as all acts and processes coming out of any other inferior courts must for the time cease and give place to the highest. And touching the party, it was a great presumption in him, knowing our servant to be one of this house and being warned thereof before, would nevertheless prosecute this matter out of time, and thereupon was well worthy to have lost his debt, which I would not wish, and therefore do commend your equity, that, having lost the same by law, have restored him to the same against him who was his debtor. And if it be well considered what a charge it hath been to us and you all, not only in expense of our substance but also in loss of time which should have been employed about the affairs of our realm, to sit here well-nigh one whole fortnight about this one private case, he may think himself better used than his desert. And this may be a good example to other to learn good manners, and not to attempt anything against the privilege of this court, but to take their time better. This is mine opinion, and if I err, I must refer myself to the judgement of the justices here present, and other learned in our laws."

Whereupon Sir Edward Montacute lord chief justice very gravely told his opinion, confirming by divers reasons all that the king had said, which was assented unto by all the residue, none speaking to the con-

<sup>1</sup> He was page of his chamber.

<sup>2</sup> I.e. when he was, in 1529.

trary. The act, indeed, passed not the higher house,<sup>1</sup> for the lords had not time to consider it, by reason of the dissolution of the parliament, the feast of Easter then approaching.

Poor White did not lose his rights, however, for on 1 April 1542<sup>2</sup> he was summoned before the council, "and there knowledging his default, and yet alleging ignorance in committing of the same", was bound over not to molest Ferrers, understanding that the council would decide his claim before the end of the year.

It is a pity that the details of the case and the king's speech depend on Holinshed<sup>3</sup> solely: yet it is possible to believe him when he says, "Because this case hath been diversely reported, and is commonly alleged as a precedent for the privilege of the parliament, I have endeavoured myself to learn the truth thereof, and to set it forth with the whole circumstance at large, according to their instructions who ought best both to know and remember it". However that may be, Holinshed's account is almost all we have and on it every estimate of Ferrers's case must be based. On that basis, the story of Ferrers was, when the house of commons had become aggressive, a powerful weapon against the crown, and it has even been supposed to be "a mere Fable, which the Puritans and Calvinists had prevailed"<sup>4</sup> on Holinshed to insert. Indeed, the release of Ferrers by mere order of the com-

<sup>1</sup> The bill for the Privilege of the Parliament was brought up from the lower house on March 31 and given a second reading: *L.J.* 1, p. 196: on April 1 parliament was prorogued to Nov. 3.

<sup>2</sup> Nicolas, VII, p. 332.

<sup>3</sup> Hall's account is contemporary and runs thus (ed. Whibley, vol. II, p. 315): "The Parliament sitting, in Lent one George Ferrers Burgess for the town of Plymouth, was arrested in London upon a condemnation, at the suit of one White. Whereupon the Serjeant at arms, of the Common house, was sent to the Counter in Bread Street to fetch him: but the clerks would not deliver him, wherefor the Serjeant and his man, would have brought him away perforce. Divers of the Sheriff's officers there present, withstood the Serjeant, so that they fell to quarrelling, and the Serjeant's man was sore hurt. After the fray ended, the sheriffs of London whose names were Rowland Hill, and Henry Suckely came to the Counter, and first denied the delivery of the prisoner, howbeit afterward they delivered him. But this matter was so taken in the Common house, that the Sheriffs and the Clerk, and five Officers, and the party plaintiff were sent to the Tower, and there lay two days, and were delivered again by the Speaker and Common house": my spelling.

<sup>4</sup> John Hatsell, *Precedents of Proceedings in the House of Commons* (edition 1818, first published, 1776), I, p. 57 n. reporting T. Carte, *History of England* (1747), III, pp. 164, 541.



mons, and the imprisonment not only of the gaolers who had refused to release him but also of the creditor who had procured his arrest, might at first sight seem to give the commons a quite independent power to punish any offender against their privileges, against this privilege of freedom from arrest at least, and more still, the case might seem to go a long way towards empowering them to define the limits of their own privileges, or at least of this one. This is the way the case has commonly been taken, and for understanding its importance in the future this is one good way to take it: but for understanding its importance at the time I think that it requires further examination, and that the best clue may be found in a remark of Hatsell's<sup>1</sup>—"the measures which were adopted, and the doctrine which was now first laid down with respect to the extent of the Privileges of the House of Commons, were more owing to Ferrers's being a servant of the King's, than that he was a Member of the House of Commons".

As for the imprisonment of jailers and creditor, it is to be noted that it was not by "mere" order of the commons, nor quite merely for the mere arrest of one of them. Ferrers was actually on his way to the parliament, he was known by White to be a member,<sup>2</sup> he was not himself the actual debtor, he was a personal servant of the king's,<sup>3</sup> and he was avenged by imprisonment only after violence had been shown to the serjeant. Now the serjeant, though acting on the orders of the commons, was also a servant of the king's, and to strike the crown off his mace was very much to wound the king, and not only his commons. Nor is it the whole truth to say that judgment against the clerk of the counter was given by the lower house: they fixed the penalty, but not till they had been reinforced with the decision of the upper house; Holinshed is clear that it was "all the lords and judges there assembled who, judging the contempt to be very great, referred the punishment thereof to the common house". The commons, indeed, heard the offenders (without counsel) and condemned them, but by that time the commons (and the offenders) knew that they had the lords and judges behind them.

<sup>1</sup> 1, p. 59.

<sup>2</sup> Or so it was alleged, and is difficult to doubt.

<sup>3</sup> The Privy Council record notes that he is "one of the pages of the Kinges chawmber" before it adds "being thanne one of the burgeses off the Parliament", Nicolas, VII, p. 332.

The king's speech encouraged the commons and patronised their privilege, and was careful to put those objects first: but it was no less careful to put beyond all doubt the reasons why encouragement and patronage were deserved. Ferrers was Henry's servant, and Henry was the principal member, and much more than a member, the head,<sup>1</sup> and more than the head, of the parliament, and Ferrers as his servant in another capacity, quite apart from his burgess-ship, was to have his privilege, like servants of lords and commons:<sup>2</sup> and in so far as it was from his burgess-ship that Ferrers had rights it was because a burgess was a member, however inconsiderable, of the body politic at its most solemn and complete, of Henry's parliament, and because therefore an offence against a burgess touched Henry's person and parliament. There must be protection of the access to any court, and most of all to the king's highest court. As to the exposition of the law, Henry appealed to the judges, and the lord chief justice bore him out, nor is there any reason to suspect him of excessive deference in doing so.

Henry had played the gracious part, and went on doing so, for it was not the parliament but the council which secured poor White in his rights, and in the autumn the king displayed his magnanimity by knighting the sheriff, Hill. But even Henry could not undo what had been done, and Ferrers's case had caused one new thing to be done: this was the action of the commons without any help, when they sent the serjeant the first time to the Counter, and this was the most important part of the case as a precedent for the lower house's jurisdiction in the future: but here what matters is its importance at the time. How was it that the house of commons could thus innovate? did it feel then that it had strengthened itself? and if so, against whom, or for what?

The answers to these questions must be largely guess-work: what

<sup>1</sup> The house of commons of 5 H. IV (*R.P.* III, p. 542) had petitioned, unsuccessfully, that since they were under the special protection of the king, therefore the killing of one of them or their servants be punished as treason (of all crimes that most personal to the king), and maiming be punished with loss of a hand (as if it had been done within the verge of the king's court).

<sup>2</sup> For the history of the *Protection of the Servants of Members of Parliament*, cf. A. S. Turberville, in *E.H.R.* vol. XLII, no. 168. Cf. p. 468 above, the chancellor's cook, and the case of the servant of a knight of the shire, *Rod v. Sadcliffe*, Hatsell, I, p. 51.

little certainty there is comes from the previous history of the privilege, and from the method of its exercise during the next generation.

Before this time "when a Member, or his servant, has been imprisoned, the House of Commons have never proceeded to deliver such person out of custody by virtue of their own authority; but, if the member has been in execution, have applied for an Act of Parliament to enable the Chancellor to issue his writ for his release,<sup>1</sup> or, if the party was confined only on Mesne process, he has been delivered by his writ of privilege, which he was entitled to at common law". Act of parliament was necessary in the first case, because without it the suit which caused the imprisonment, having been ended, could not be re-commenced:<sup>2</sup> in the second case the arrest was not at the end but only in the course of the suit, which accordingly could be prosecuted again from that point as soon as the privilege against imprisonment lapsed. In both cases the house's power to enforce the privilege was dependent on its securing co-operation, from lords and king, or at least from chancery. How came it in 1542 to act on its own?

The privilege was in its essence a part of the nature of parliament: the king must especially protect those who are obeying his summons to his courts,<sup>3</sup> and most of all to his high court of parliament: in any clash between the claims of two courts, the higher must prevail, and parliament is the highest of all: "That the attendance on Parliament ought not to be interrupted by the process of any inferior Court in matters of Civil Jurisdiction", was, as Hatsell justly observes, "a maxim that must have been coeval with the existence of Parliaments". All that needed to be worked out was the method of enforcing it: the limits to it were pretty well fixed before the Tudor period—parliament itself

<sup>1</sup> Cases of Lark, Clerke, and Hyde.

<sup>2</sup> Hatsell, I, pp. 53, 68, and apparently the rule was that in such case he gave security for the amount in dispute, cf. *R.P. v.* p. 240, Thorpe's Case.

<sup>3</sup> Cf. a little later, *L. and P.* XXI (1), no. 969 (4), the king to the justices, 2 1545 or 1546, understanding that their officers and clerks of both benches are exempt by ancient custom out of all "empannells", and that the head officers and clerks of his Household were likewise privileged until of late some of them have been returned in "impannells", commands that henceforth if the sheriff of Kent or any other sheriff so return any head officer or clerk of the Household such officer or clerk shall be discharged.

existed to prevent treason and felony and breaches of the peace, and its privilege could not cover those crimes.<sup>1</sup> It was a privilege for the facilitation of the king's business, not in any way a privilege against the king: when,<sup>2</sup> for instance, Walter Clerke member for Chippenham was arrested at the king's suit, not only was a statute considered necessary to release him, but it provided a special indemnity for the chancellor for his writ of release. It was a privilege to be interpreted by the high court of parliament (that is, the lords<sup>3</sup>), and attempts of the commons to overweigh it met with no success:<sup>4</sup> indeed, in Lark's case the king refused the commons request for a statutory generalisation of "quittance from all arrest, during your said Court of Parliament, except for treason felony or surety of peace": and in general the lower house's efforts to extend its immunity over the property of its members and against all civil process were kept within bounds and were not allowed to acquire any definitive power.<sup>5</sup>

And yet under Henry VIII, so much stronger than his predecessors, at the height of his power, the commons on their own initiative and by their own power endeavoured to do what before they had always done by petitioning for an act of parliament, and did in fact do it, after obtaining the approval but refusing the co-operation of the lords, and themselves punished the resistance they had met with. This seems to have been at the time less an extension of their authority than an example of the consciousness some of them had of identification with the royal purposes. The king's servant, the speaker, with others who served him in his council and his chamber, instructed the king's servant, their serjeant,<sup>6</sup> to release from a city prison one who habitually served the king in his chamber and who just then was prevented from serving

<sup>1</sup> Cf. Hatsell, I, p. 18, Lark's Case; p. 28, Thorpe's Case.

<sup>2</sup> 39 H. VI, *R.P.* v, p. 374: cf. also Hyde's Case, 14 E. IV, *R.P.* VI, p. 160, and Hatsell, I, pp. 34-8, 44-8.

<sup>3</sup> Cf. Lark's Case, where the king had besides the advice of the lords the consent of the creditor's counsel also.

<sup>4</sup> Hatsell, I, pp. 13 (5 H. IV), 22 (10 H. VI), 41 (12 E. IV, where a writ stopping suit upon a bond against the earl of Essex's servant was disallowed by the judges).

<sup>5</sup> Cf. n. 4 above, and the Irish Case and Atwyll's Case, Hatsell, I, pp. 39, 48.

<sup>6</sup> And, of course, during most of his service as serjeant he was not their serjeant because parliament was not in being.

him by attendance on parliament for no better reason than some private man's anxiety about a debt, and Henry was careful, under the guise of approval, to point out that this was the true view of the case.<sup>1</sup> No doubt the house of commons had been rather led into the habit of keeping an eye on its own composition by the frequency, length, continuity, and pregnancy of its sessions, since Wolsey's fall, and by the act of 1515<sup>2</sup> which first gave it some control over attendance. Perhaps, also, the government was influenced by a feeling that the City was more nearly imaginable than the Commons House as a power grown big enough to be awkward, especially in a year when, for the first time since 1528, forced loan was being revived. Certainly another royal servant had, very shortly before Ferrers, needed protection against civic authority. "Whereas Thomas Barnabye at the suit of Roche<sup>3</sup> the alderman was arrested and committed to the Counter, forasmuch as the same Thomas had a letter signed with the Cownsell's hand,<sup>4</sup> by virtue whereof defence was made that no man should encumber him during the time he should be occupied in the King's affairs, he was by order of the Cownsell dismissed out of prison, and the said Roche commanded to pay his fees and other expenses during the time of his imprisonment."<sup>5</sup>

Clearly, the principle of protecting those who were about the king's business was in full force and not likely to be forgotten. And the very next day there was a case which may remind us that beyond doubt one of the methods by which conciliar jurisdiction paid its way in the sixteenth century was by evolving new remedies and processes to meet the needs of a new age: in connection with perjury, slander,<sup>6</sup> libel,

<sup>1</sup> And he added "if it be well considered, what a charge it hath been to us and you all, not only in expense of our substance, but also in loss of time, which should have been employed about the affairs of our realm, to sit here wellnigh one whole fortnight, about this one private case, he (the creditor) may think himself better used than his desert": Holinshed, III, p. 956.

<sup>2</sup> 6 H. VIII c. 16, cf. p. 55 above.

<sup>3</sup> Cf. above, p. 391, the government a little later getting its own back on Roach, apparently the same.

<sup>4</sup> Note that although the Privy Council had not yet a seal, it had already a hand.

<sup>5</sup> Nicolas, VII, p. 305, 14 Feb. 1542.

<sup>6</sup> Cf. again a little later, 8 July 1545, Dasent, I, p. 209, Edmund Finch who for slanderous words towards Sir Thomas Cheney was committed to the Marshalsea,

printing, methods of proof, this was true, and in all these connections summary punishment for contempt was a very handy tool. How handy, other jurisdictions perceived, and it can hardly have been without some such perception that the lower house began, by summary punishment of what it declared breach of its privileges, to exercise jurisdiction.

Whereas Edmonde Fox and Charles Fox,<sup>1</sup> and one Calfhill, had exhibited to the Cownsell a book containing sundry heinous articles against the President of the Cownsell of the marches of Wales, this day the said President was commanded to appear, and to make answer thereunto. And forasmuch as by his answer it appeared to the Cownsell, that the accusations wholly proceeded of malice, nothing being alleged for the justifying of the same, but surmises, conjectures and allegations of report;<sup>2</sup> for that it was thought an evil example that any man should have liberty upon no ground so maliciously to accuse any high minister of the King's justice; for the example of others, the said accusers all three were committed to the Fleet. But forasmuch as the said Edmonde and Charles Fox alleged themselves to be burgesses of the Parliament, and claimed the privilege of the House, the Cownsell admitting herein their just request dismissed them from their sentence of imprisonment for that time, and bound each of them in a several recognisance of £200 to appear before the Cownsell once in the week during the Parliament, and after the Parliament to appear from time to time till they should be licensed to depart: and the said Calfhill in the mean season according to the first resolution was sent to the Fleet.<sup>3</sup>

There is here much that must have been present to the minds of many concerned with Ferrers's Case, so few weeks later—the exemplary punishment for contempt hardly less than the privilege of the House. Though clearly the incident was felt to be notable, it does not appear<sup>4</sup> to have seemed then to the commons a great step towards a new pre- and then put in the pillory with a paper on his head written in great letters, "For slanderous words of the King's Counsaill".

<sup>1</sup> Officials of the Council in the Marches, engaged in prolonged litigation with other officials there about rights and duties and fees, Nicolas, VII, pp. 31, 35, 36, 322, 325.

<sup>2</sup> Note that this is much more than a century before English liberty begins to owe to "Bloody" Jeffreys the assurance that what the soldier says is not evidence.

<sup>3</sup> Nicolas, VII, p. 306: note that the Foxes were officials.

<sup>4</sup> Cf. Hall, himself then M.P. for Bridgnorth and a lawyer of city connections, above, p. 469, n. 3.

tention, certainly not against the crown. Nor, for a long time, a generation and a half, was the case utilised to make of the house of commons a court, still less a rival in authority with the crown. In Trewynnard's Case (Feb. 1545) no attempt was made to release him by mere fiat of the house of commons, but he had a writ of privilege:<sup>1</sup> Dyer,<sup>2</sup> in his argument for Trewynnard,<sup>3</sup> said that "the Court of Parliament is the highest Court, and has more privileges than any other . . . ; wherefore it seems that in every case without exception each Burgess is privileged, when the arrest is only at the suit of a subject". Ferrers's Case was not being used as a strengthening of the commons against the crown. Indeed, writ from the chancery and not the serjeant's mace continued to be the instrument of privilege,<sup>4</sup> and in Smalley's Case (1575) a committee of the house of commons "found no precedent for setting at large by the Mace any person in arrest, but only by Writ":<sup>5</sup> Smalley was a member's servant, and it has been suggested that *person* here means *person not a member*, but it seems clear that this is not so, and probable that Ferrers's Case was considered too exceptional in its circumstances<sup>6</sup> to reckon as a precedent. Anyway, the whole

<sup>1</sup> After 4½ months (more than half of them parliamentary) in prison: Hatsell, 1, p. 64, is inclined to think that this writ of privilege was directed to be issued by an order of the house of commons, and adds that "within a very few years this idea was adopted by the House of Commons; and it was established, that no person should apply for a Writ of Privilege without a warrant for that purpose first obtained from the Speaker".

<sup>2</sup> Afterwards lord chief justice, and author of the *Reports*: "enjoyed a high reputation among his contemporaries for learning, justice and acumen" (*D.N.B.*).

<sup>3</sup> I.e., as counsel making out the privilege as wide as possible. *Reports*, p. 59, Hatsell, 1, p. 62.

<sup>4</sup> Though in 1552 and 1554 the house used the power of committal to punish offence to its privilege: Hatsell, 1, pp. 72, 74. In 1555 the house of commons failed to enforce its privilege against a recognizance to appear before the council twelve days after the end of the parliament. When Lord Cromwell was released in 1572 from an attachment for debt it was not merely by his peers but "in the presence of the Judges, and others of the Queen's Majesty's learned Counsel, there attendant in Parliament, and upon declaration of the opinions of the said Judges and learned Counsel", and there was a saving clause for the queen's prerogative, the common law or statute, or any sufficient precedents (Hatsell, 1, p. 87, referring to Prynne's *Fourth Register*, p. 790, and *L.J.* 1, p. 727).

<sup>5</sup> Hatsell, 1, p. 89: in 1571 Wickham, also a member's servant, had been released by writ.

<sup>6</sup> E.g. his being only a surety, so that the debt was still recoverable from the principal: and his being a servant of the king, which was used in 1601 as an argument

house overruled its committee and released Smalley<sup>1</sup> by mace, only to find that his arrest had been a collusive attempt to use its privilege for purposes of fraud, whereupon the house itself condemned him to the Tower for a month,<sup>2</sup> till he had paid his dues. This excursion into Elizabeth's reign is intended to show that the house of commons did not in the sixteenth century feel that Ferrers's Case had strengthened it against the crown, and Fitzherbert's Case (1592)<sup>3</sup> may be used to complete the demonstration, for it was then decided that he should not have privilege, and one of the reasons (and clearly, I think, the real reason) alleged for that decision was that it was at the queen's suit and for her debt that he had been outlawed.<sup>4</sup> Yet Fitzherbert's Case may be used also for showing how much during the Tudor period the lower house had grown stronger, more capable of single action, for it was now<sup>5</sup> that the house claimed, or rather assumed, that it was a court of record. This dignity was to revolutionise English government: it had been able to slip almost imperceptibly into existence largely because of the closeness with which Henry VIII had identified himself with his parliaments, and especially because of the initiative and effective action which the consciousness of greatness and of the royal favour had enabled the commons to take in Ferrers's Case.

for releasing (by mace, on giving bond to pay his debt) a servant of the queen's, Wm. Hogan, not a member of parliament: Hatsell, pp. 113, 116.

<sup>1</sup> On condition that the debt be first satisfied.

<sup>2</sup> This was certainly *ultra vires*, since the house itself had ceased to exist before the month was up. In 1580, in Norton's Case, the mace was used as warrant to arrest two porters of whom a member complained, and to commit them; and in the same year a member, for publishing an objectionable book, was committed to the Tower, "as the prison proper to the House" (Hatsell, 1, p. 93). 1584, Kirle committed for procuring the attachment of a member on sub poena from the star chamber; 1586, Martin's Case.

<sup>3</sup> And remember that this was after divers controversies between Elizabeth and her house of commons about her restraint of members, e.g. in re Strickland, 1571; Cope, 1586; Peter Wentworth, 1592.

<sup>4</sup> Hatsell, 1, p. 108, referring to D'Ewes, p. 470.

<sup>5</sup> The act 6 H. VIII c. 16 had enjoined that no member was to depart without licence from the speaker and commons, "to be entered of record in the book of the Clerk of the parliament appointed or to be appointed for the Common house". I don't think that any one thought this constituted the house a court of record till it was used as an argument to that effect by Coke in his *Fourth Institute*, p. 23 (edition 1644)—"the book of the Clerk of the House of Commons, which is a Record, as it is affirmed by Act of Parliament 6 H. VIII c. 16".



## CHAPTER XXII

### PARTIES POLITICAL AND ECCLESIASTICAL

The rest of Henry's reign is not very interesting from a parliamentary point of view: it had two main interests, the wars with Scotland and France and the competition among English politicians to be in control at the moment of Henry's decease: the second interest forbids us to neglect ecclesiastical administration for there, though no great actions and new principles were to be seen, yet there was the table on which the political dice were cast and the score was marked. Was there enough unity among Henry's councillors to make of them a corporation in any sense, or were they merely a collection, or rather a continually varying series of collections? was there one, or were there several, of them who dominated the others? was any of them safe from the king's anger? could any bend the king's mind? which of them, how chosen and how held together, should control the seal of England when the crown was worn by a child? These were great questions, all the greater (it now seems clear) because the development of English government was just then at a point where the highest consultative and administrative functions must be given more formal fixity and institutional habit: very great questions certainly, because even if there were not some evolutionary necessity of this sort,<sup>1</sup> yet mere events drove hard enough the same way, when England had to make her terms with a fast changing world under the aegis of a boy, then of a woman who would marry a foreigner, then of a woman who would marry and would not and finally never did, then of an elderly foreigner who understood everything except England. And these great questions were uttered mainly in ecclesiastical terms.<sup>1</sup>

If the king, in 1541, was really allowing Gardiner to discuss with Granvelle the possibility of imperial mediation between him and the pope,<sup>2</sup> that did not indicate any contemplated change of policy, nor

<sup>1</sup> Cf. p. 450 above.

<sup>2</sup> As the bishop of Modena wrote to Cardinal Farnese, 31 March 1541, *L. and P.* xvi, no. 676. Cf. no. 1193, referring to Foxe, vi, p. 139, Sept. 22 (Driander's letter

even any elevation of Gardiner in comparison to Cranmer. With 1542 the counter-reformation reached Henry's dominions, and the first Jesuit mission began work in Ireland.<sup>1</sup> In England the chief event was the controversy in convocation, with Cranmer and Gardiner as protagonists, about the translation of the Bible. The archbishop told Convocation that it was called because of the king's desire to make necessary corrections and reformations in matters of religion, and that he was especially anxious for a committee to examine both Testaments.<sup>2</sup> The majority held that "Cranmer's" Bible could not be kept without revision. Half a dozen bishops, with some of the lower house, were appointed to look into the Old Testament, and likewise for the New. On February 17 Gardiner read a long list of words which for their genuine and native meaning and the majesty of the matter he wished to be kept as near as possible to the Latin of the Vulgate.<sup>3</sup> There was talk also of revising service books,<sup>4</sup> and about vestments, and about teaching the Lord's Prayer, the Apostles' Creed, and the Ten Commandments, and about advising the king to correct public plays on the Word of God.<sup>5</sup> It was decided that the Use of Salisbury should be everywhere followed.

On 10 March 1542 the revision of the bible was stayed by royal command that it should be handed over to the two universities, though all the bishops dissented from the transfer except Canterbury and Ely and St David's.<sup>6</sup> The same three were alone in preferring *the Lord save*

reprinted from Foxe), how the theological faculty of Louvain attacked Stephen Gardiner about *de Vera Obedientia*, and prevented him from saying mass. See also xvii, p. viii, referring to various documents in xvi.

<sup>1</sup> Fisher, p. 473. What was much more important at the time was the murder by an imperial governor of French envoys to the Turk (*L. and P.* xvii, p. viii): nothing could have been more apt to keep continental Christendom divided.

<sup>2</sup> For all this, cf. Wilkins, iii, pp. 860 ff. and Fuller (ed. J. S. Brewer), iii, pp. 196 ff., and above, p. 396.

<sup>3</sup> Words like *ecclesia*, *penitentia*, *pontifex*, *adorare*, *communio*, *sacrificium*, *conscientia*, *sanctus*. Cf. Wm. Tyndale, *An Answer to Sir T. More's Dialogue*, in vol. II of T. Russell's edition, 1831.

<sup>4</sup> Cf. above, p. 451, below, p. 482.

<sup>5</sup> Also about tithe, adultery, perjury, blasphemy.

<sup>6</sup> Goodrich and Barlow. J. E. Cox, *Works of Abp. Cranmer*, vol. II (Parker Society), suggests that "attempts were made by the Roman Catholic party to effect a revision of the English bible: but the archbishop succeeded in defeating this object, by obtaining the consent of the king to have the matter referred to the universities".

*thee to our Lord save thee* as a salutation. There seems to have been unanimity against a parliamentary bill remitted by the chancellor for allowing bishops' chancellors to be married men<sup>1</sup> and to inflict excommunication and other ecclesiastical penalties: and there was a majority in favour of an ordinance limiting the provision of food at prelatial tables, though it was not obeyed for more than two or three months.

The committee appointed by Cromwell on ritual<sup>2</sup> seems to have composed a rationale of ceremonies, especially explaining and defending the mass,<sup>3</sup> but this did not come into Convocation or to any other public note. What revision of the services there was, was Cranmerian. The attempt to revise the bible was anti-Cranmerian, and was burked. The definition and assignment of competence was royal—convocation did not revise the bible, and bishops' chancellors were allowed to marry:<sup>4</sup> the prelates cannot fairly be called slavish, most of them protested, but their chief was acquiescent, for good reason or bad, and their resistance was nugatory.

Next year there was a great attempt to get rid of Cranmer, which had been brewing for eighteen months or more.<sup>5</sup> The spring of 1543 was a time of severity in administration. Flesh-eating in Lent was severely dealt with.<sup>6</sup> Twenty joiners having "Made a disguising upon one Sunday morning, without respect either of the day or the order which was known openly the King's Highness intended to take for the repressing of plays", and four players belonging to the Lord Warden, "for playing contrary to an order taken by the Major", were committed by the council.<sup>7</sup> In March the council arrested for evil

<sup>1</sup> Clerks of chancery had been released from celibacy in 1523, 14 and 15 H. VIII c. 8. And cf. p. 497 below.

<sup>2</sup> Along with one on doctrine, cf. p. 428 above.

<sup>3</sup> See the document referred to in Collier (fol. edition), II, p. 191, and cf. Dixon, II, p. 313.

<sup>4</sup> The authorising statute is 37 H. VIII c. 17 (1545).

<sup>5</sup> A. F. Pollard, *Thomas Cranmer*, p. 146: *L. and P.* XVIII (2), p. xlv, and no. 546.

<sup>6</sup> The earl of Surrey was committed to the Fleet by the council for this offence and for breaking windows: cf. p. 523 below.

<sup>7</sup> XVIII (1), nos. 392, 401: the joiners were released four days later. Another good instance how little conciliar jurisdiction was bound by legal or logical niceties, how it contented itself with making sure that public force was repressing what public policy disapproved, is given by XX (2), no. 889: T. Saunders of Coventry having been committed more than six months before to King's Bench "for a book touching

opinions about the sacrament the dean of Exeter, three inhabitants of Windsor, and others including two so near the king as a master of the household and a gentleman usher.<sup>1</sup> On April 8 the king's printers and others were imprisoned for printing unlawful books contrary to proclamation. It might seem a suitable season for flinging charges of heresy even higher. A party among the Canterbury clergy, previously encouraged by Gardiner,<sup>2</sup> came up to town with charges which they submitted to Dr London<sup>3</sup> and Bishop Gardiner, who received them well. London showed them to some members of the council, and got the articles of accusation drawn anew by the Kentish justices with witnesses' signatures, and three of the accusing clergy sent to London for the information of the council, which resolved that "if the king's highness should be so content" a commission should go to Kent to examine certain special articles and generally all abuses and enormities of religion.<sup>4</sup>

And "the king on an evening rowing on the Thames in his barge, came to Lambeth Bridge and there received my Lord Cranmer into his barge, saying unto him merrily, 'Ah, my chaplain, I have news for you: I know now who is the greatest heretic in Kent'. And so pulled out a paper wherein was contained his accusation. . . . Whereupon my Lord Cranmer made answer, and besought his highness to appoint such commissioners as would effectually try out the truth": but Henry insisted that the commission should be headed by Cranmer himself, in spite of his protests, "for surely I reckon, that you will tell me the truth: yea, of yourself if you have offended". And "all the confederacy was utterly known and disclosed. . . . And so a parliament being at hand,

religion noted with his hand, because that book extended not to any such offence as appeared against the Articles" and he had been in prison so long, was released after a good talking to, by a council consisting of Cranmer, Hertford, and seven others.

<sup>1</sup> And others of the Household: *L. and P.* XVIII (2), no. 241 (6).

<sup>2</sup> Perhaps: Gardiner seems to have denied it, *Letters*, pp. 325 ff.

<sup>3</sup> Who had much to do with the dissolution of the monasteries and recently with the detection of heresy at Windsor: he was later convicted of perjury, and died in prison.

<sup>4</sup> Cf. A. F. Pollard, *Thomas Cranmer*, pp. 148-50 and XVIII (2), pp. xlv-vii, both summarising the proceedings as printed at no. 546, pp. 291-378; J. R. Dasent, *A.P.C.* I, p. 126.

great labour was made by their friends for a general pardon, which wiped away all punishment and correction for the same, specially my Lord Cranmer being a man that delighted not in avenging".<sup>1</sup>

So the reactionaries were not carrying all before them; but still on the whole it was their year. Convocation granted a subsidy of 4s. in the pound payable in three years, considered a book of homilies, gave further directions for the purging of service books and the Englishing of the lessons,<sup>2</sup> and made petition for the codification of canon law and the enforcement of tithe. All this was pretty non-committal, and so far as it had a character was Cranmerian: but the main business of the year was rather reactionary, and that was the publication of the *Necessary Doctrine and Erudition for any Christian Man*.<sup>3</sup> It was largely a revision of the *Institution* by the committee set up in 1540,<sup>4</sup> partly controlled by Gardiner<sup>5</sup> but mainly and finally by the supreme and orthodox head of the English church, so that the "Bishops' Book" was succeeded by the "King's Book".<sup>6</sup> Convocation met again early in April (1543) and in the course of the month approved the new formulary.<sup>7</sup> On May 5 it was "used in the Cownsell Chamber before the Nobility of the Realm".<sup>8</sup> The king "confirmed it by a law made (among other good laws) in this session of his parliament".<sup>9</sup> On May 29 it

<sup>1</sup> R. Morice, *Anecdotes of Abp. Cranmer*, in J. G. Nichols, *Narratives of the Reformation*, p. 253. The pardon was 35 H. VIII c. 18.

<sup>2</sup> Wilkins, III, p. 863, cf. above, p. 479.

<sup>3</sup> To be read most conveniently in the edition by Thos. A. Lacey, 1st edn. 1895, revised and augmented 1932. Cranmer himself, of course, had a hand in the revision (see the copy of the Bishops' Book with corrections by Henry and answers to them by Cranmer printed in *Works* (J. E. Cox), II, p. 83), and "there was a large infusion of the 'New Learning' in the committee by which the matter was decided": J. Gairdner, *Lollardy*, II, p. 353, and in general pp. 350-4. "On the whole it is sufficiently clear that the ancient teaching of the Church was on most subjects more explicitly defined than it had been in the previous Formulary": *Lollardy*, II, p. 356. Cf. p. 397 above.

<sup>4</sup> Cf. pp. 428, 480 above.

<sup>5</sup> Cf. Muller, p. 106; also p. 107, where he says "Gardiner, despite his own part in the book, was right. It was the King's book; it was also the Parliament's book, and the clergy's book, and the people's book... the most successful attempt... anti-Papal Catholicism."

<sup>6</sup> Cf. *Lollardy*, II, p. 354.

<sup>7</sup> Wilkins, III, p. 868.

<sup>8</sup> Dasent, I, p. 127.

<sup>9</sup> Wriothesley writing (May 15) in the council's name to Suffolk.

was published,<sup>1</sup> with a royal preface in which Henry thanked God for the good done by the publication of the scriptures in English against hypocrisy and superstition, and regretted that (as in the parable) arrogancy and contentiousness and other devilishnesses were entering instead: so, with the advice of his clergy, he was setting forth this declaration of God and His word "whereby all men may uniformly be led. . . Which doctrine also the lords both spiritual and temporal, with the nether houses of our parliament, have both seen and like very well". The king reminded his people that God "hath ordered some sort of men to teach other, and some to be taught. . . and hath beautified and set forth by distinction of ministers and offices the same church": for the teachers deep and direct knowledge of the scriptures was necessary, but for the taught "not so necessary. . . , but as the prince and the policy of the realm shall think convenient, so to be tolerated or taken from it. Consonant whereunto the politic law of our realm hath now restrained it from a great many": sufficient for them the blessing on those who hear the word of God and keep it, which he exhorted them to deserve, "and willingly to observe such order as is by us and our laws prescribed".<sup>2</sup>

The statute referred to was the Act for the Advancement of True Religion.<sup>3</sup> The scripture had been perverted, by word of mouth and in print and even by "plays rhymes songs and other fantasies", with a resultant crop of variance and schism, wherefore his majesty considered that it was not enough to repress such errors with penalties but necessary also to "establish a certain form of pure and sincere teaching, agreeable with God's word, and the true doctrine of the catholic and apostolical church, whereunto men may have recourse for the true decision of" controversies: and so king, lords, and commons

<sup>1</sup> Muller, p. 107.

<sup>2</sup> It is amusing to find what may seem recognisable as Anglican principles used by Gardiner in the controversy about Greek pronunciation: *Letters*, p. 107, "I have thought, that what is definitely established should be upheld by public authority. As for what is not yet clear, what is uncertain, this I have thought should be left, as it were, in the silence of unspoken meditation". Cf. Charles I's Declaration prefixed to the Articles of Religion, Nov. 1628, S. R. Gardiner's *Constitutional Documents*, p. 75, or many prayer-books.

<sup>3</sup> 34/5 H. VIII c. 1: cf. above, p. 396.

prohibited Tyndale's bible and all other English books contrary to the doctrines set forth by the king: not only the dissemination but even the possession of bad books, especially those attacking the holy and blessed Sacrament of the Altar, or maintaining the damnable opinions of the anabaptists, was penalised: English bibles not Tyndale's, and not annotated, were authorised, and old books not banned by proclamation, and religious books passed by king and clergy: unauthorised persons were forbidden to expound the scriptures:<sup>1</sup> gentlemen might read the bible to their own households, and merchants and gentlewomen to themselves, but other women and the lower classes not at all:<sup>2</sup> half of any fine under the act should go to the informer: clerics preaching contrary to the king's doctrines were at the third offence to be burnt as heretics, laymen to forfeit all goods and liberty, but no doctrine was to be protected by these penalties until at least one month after it had been put in print. The accused were given the privilege of calling witnesses: "the King's Majesty our said Sovereign Lord that now is, King Henry VIII, may at any time hereafter at his Highness's liberty and pleasure change and alter this present Act and provisions of the same": the Six Articles Act was confirmed: conviction was to be before any two of the king's council, or the ordinary of any diocese with two justices of peace.

It is not necessary to believe that in fact "the king's doctrines" had been liked very well by council, convocation, and parliament, and it is not necessary to believe that the clause permitting royal variation of the statute was meant to be used or ever was used to enforce any penalty or restriction beyond the terms of the act. But if the king was not making new doctrines and unmaking old, and if the people was not

<sup>1</sup> The lord chancellor and military officers and others accustomed to make godly exhortations might continue to use biblical texts.

<sup>2</sup> But even mean persons might "read and teach in their houses . . . all such doctrine as since . . . 1540 is or shall be set forth by the king's majesty our sovereign lord that now is as is aforesaid, and also the psalter primers paternoster ave and creed in English": but they must be careful to do the same quietly and without disturbing good order, and though one section (s. 11) spoke of the possibility that Henry might presently grant greater liberty, another (s. 22) authorised him to "change and alter this present act and provisions of the same" just as he chose. Cf. above, pp. 300, 393 ff., 445, 479 ff.

being faced with new and arbitrary crimes and punishments, at least the royal head was having both the first word and the last in the establishing of truth, and the people was submitting to laws which were more than ordinarily the king's. And if the decisions now enforced were agreeable to the mass of the clergy, and the more agreeable to the more old-fashioned of them, yet no clergy however anti-papal, especially no traditionalist clergy, could be constantly enamoured of this method of enforcement. How royal and personal Henry's supremacy was a very few years were to show, when after Henry's death Canterbury was to be besought to "obey our late sovereign lord that dead is",<sup>1</sup> and the Protector was to be assured that "when our sovereign lord [Edward] cometh to his perfect age... God will reveal that shall be necessary for the governing of his people in religion".<sup>2</sup> "A king's authority to govern his realm never wanteth, though he were in his cradle",<sup>3</sup> yet government during a minority had best take as little initiative as possible, especially ecclesiastically: not that the royal person, however complete, should be arbitrary—"Our late sovereign lord made no alteration in his time without a convocation of bishops and open debating of the matter".<sup>4</sup> On the other hand, royal as the supremacy was, over-royal as it might appear, and synodal as on the whole it had so far happened to be, it was very parliamentary too, and if those adjectives should ever be in mutual opposition this statute of 1543 would be an instance of ecclesiastical supremacy at its supremest in parliament, of extreme powers attributed (then delegated?) to Henry VIII by name (then, not to another king?) by act of parliament.

For the rest, the business of this parliament was mainly financial,<sup>5</sup> with special reference to the Scotch war and the probability of a French war:<sup>6</sup> the reorganisation of Wales along English lines of juris-

<sup>1</sup> Gardiner, *Letters*, p. 357.

<sup>2</sup> P. 291.

<sup>3</sup> P. 313.

<sup>4</sup> P. 367.

<sup>5</sup> Cc. 27 and 28, subsidies lay and clerical, cc. 2, 16, 17, and others.

<sup>6</sup> The four northern counties and the Cinque Ports were exempted from the subsidy. So were Oxford and Cambridge, Eton and Winchester. The scriptures in English were "let slip amongst the people" in Scotland: *L. and P.* xviii (1), no. 157, and p. xvi. And cf. xviii (1), nos. 661 and 675, June 1543, the Council at London to the Council at Court and vice versa, about lists of gentlemen in each county and the number of men they can bring for the French war: xviii (2), no. 384, Nov., negotiations for mercenaries from Cleves; cf. xix (1), p. xxxviii.



diction was continued, and parliamentary representation was given to Cheshire and Chester: the earlier Proclamations Act was strengthened, and also the clause under which Henry could vary the Act for Religion, by a statute<sup>1</sup> reducing to nine the minimum of counsellors for punishing breach of proclamation. Against this Lord Mountjoy entered the only protest made against a public bill in the *Lords Journals*<sup>2</sup> during the whole of this reign.<sup>3</sup> The other events of the year were the rain that ruined the harvest (in spite of the Latin litany which was ordered to be said), the casting of the first iron cannon in England,<sup>4</sup> the king's marriage with Catharine Parr, and the great victory of Solway Moss (24 Nov. 1543) which left a broken Scotland to be governed by a baby girl.

It was on 12 July 1543 that Henry went through his sixth marriage ceremony.<sup>5</sup> Catharine does not seem at the time to have been counted as one of the reforming party, but she is supposed to have abated the severities under the Six Articles Act, and certainly did much for the kinder handling and better education of the king's children.<sup>6</sup> Certainly also, however she was regarded at the time of her accession, she was in effect a reinforcement to what may be described, if not perfectly at least recognisably, as the protestant party. Chapuys, perhaps with the malice of a diplomat, thought her not nearly so beautiful as Anne of Cleves,<sup>7</sup> but Wriothesley, perhaps with official optimism, was sure his majesty had never a wife more agreeable to his heart.<sup>8</sup>

The royal marriage made parliament necessary, and it sat from the middle of January 1544 to the end of March, when (in the new manner)

<sup>1</sup> 34 and 35 Henry VIII c. 23.

<sup>2</sup> 1, p. 225.

<sup>3</sup> Burnet, 1, p. 510.

<sup>4</sup> Herbert, p. 503. In October the king was recommending the use at the siege of Landrecies of "such shot as would break of itself and scatter abroad to do hurt": *L. and P.* xvii (2), no. 293.

<sup>5</sup> With the widow of Edward Borough, and since about the beginning of 1543 of John Neville lord Latimer. Cranmer had given a licence for marriage without banns, and Gardiner officiated: xviii (1), no. 873.

<sup>6</sup> Cf. *D.N.B.*

<sup>7</sup> Who, he said, had taken great grief and despair, especially as Catharine, having survived two childless marriages, was not likely to produce an heir: xviii (1), no. 954.

<sup>8</sup> No. 894.

it was dissolved and the royal assent was given by commission,<sup>1</sup> during which time twenty-five acts were passed, half a dozen of them of some importance. Of these the most obviously and the most permanently important was the Succession Act.<sup>2</sup> It recited how the statute 28 H. VIII c. 7 had established the king's power to limit the succession in default of legitimate issue, how he had none except Edward, was now married to Catharine, and was about to make a voyage royal in his most royal person against his ancient enemy the French king; he might indeed limit the succession by letters patent or by will, but thought convenient that his mind should be openly known to all his subjects, "to the intent that their assent and consent might appear to concur", and therefore enacted by authority of lords and commons that failing other heirs for him or Edward, then the succession should go to Mary and her heirs "with such conditions as by his highness shall be limited", and then similarly to Elizabeth. Breach of condition by Mary should let in Elizabeth, and breach by Elizabeth Henry's nominee, and the king might appoint the succession after them in case of failure of issue. The oaths required by earlier statutes<sup>3</sup> against papal authority were replaced by a new one—neither the bishop of Rome nor any other foreign potentate ought to have any jurisdiction here by God's or any other just law, such pretended jurisdiction was renounced and consent would never be given to it or any such foreign pretension in future but it should always meet every possible resistance, and faith be borne to the king and his heirs under this act, as supreme head and under every other title, as statute directed or should direct: all oaths sworn to Rome or its jurisdiction were vain and annihilate: all office-holders, lay and clerical, must take the new oath, and all other persons when called upon, and refusal should be punished as high treason. Lastly, the same penalties were denounced against any one who "by words writing or imprinting or by any exterior act" should do or cause to be done anything to the "interruption repeal or adnullacion of this Act, or of anything therein contained, or of anything that shall be done by the King's Highness . . . by authority of the same". It is con-

<sup>1</sup> *L.J.* 1, pp. 264, 265.

<sup>3</sup> 28 H. VIII cc. 7 and 10.

<sup>2</sup> 35 H. VIII c. 1.

venient to notice with this statute the two next chapters of the same session's acts, the one providing for trial in king's bench or before special commission of treasons committed abroad, the other making it high treason to attempt to deprive the king or any successor of any part of his style or title.<sup>1</sup> Henry's capacity to punish subjects who threw doubt on his pretensions or succession was limited only by the nature of the physical universe.

It is hardly necessary to insist<sup>2</sup> that if the immediate importance of the act of succession was as a demonstration of Henry's plenitude of power, its eventual importance was as an instance of parliament's omnicompetence, its purported subjection of the monarchy to a parliamentary contract, and the parliamentary annexation of the divine privilege of making an heir. The very attempt to stress and eternize the former feature was self-defeating. It was humanly certain that no later parliament would feel itself incapable of altering this clause if it so desired, and that very certainty gave to the enhancement of the king's high court a standing support which it denied to the enhancement of the king. Of somewhat similar effect was another statute:<sup>3</sup> Henry had expended for his subjects intolerable travail of his person, and inestimable substance as well, not only contributed by his said subjects, but "also of his own yearly revenues of his Crown", which he might have reserved to his own use; and now the ingratitude of the French king, withholding the accustomed pension and inciting to rebellion Henry's natural subjects the Scots, compelled him to arm himself, at great cost: wherefore his lords and commons remembered how during the last two years divers subjects had made advances by way

<sup>1</sup> Including the kingship of Ireland and supremacy over the Irish church. This was not passed without a conference between committees of the two houses, and a great deal of discussion. *L.J.* 1, pp. 238 (read a first time in the lords), 239 (second time), 240 (24 Jan. third time and committed to the King's Attorney and Dr Tregonwell for passing to the commons), 243 (4 Feb., Rd. Rich, J. Baker, and Rob. Southwell came to ask for a conference of committees, which was fixed for next day), 244 (5 Feb., *allata est a Domo Communi Billa pro integro Stilo...*; 7 Feb., first reading), 245 (8 Feb. second reading, 9th Feb. third reading and passed to the commons), 246 (13 Feb. brought up from the commons), 247 (14 Feb. second reading), 248 (16 Feb. *3a vice lecta est Billa... que conclusa est*).

<sup>2</sup> Cf. p. 290 above, earlier Succession Act.

<sup>3</sup> C. 12.

of loan in return for promises under the privy seal of repayments at fixed dates (which sums his highness had used for the commonwealth), and lords and commons "for themselves and the whole body of this Realm whom they do present" gave to the king all such sums as might in this way be due to any of them, and ordered any who might have been repaid to pay back to the king again, and if any one had sold his privy seal then he was to repay the buyer. Statute was stronger than privy seal indeed, and than equity, and even than accomplished fact. But when, later in the same year, Henry borrowed over £20,000 more from the city, it was on mortgage of royal lands:<sup>1</sup> and on the Antwerp money market in June 1544 he could not borrow at less than twelve per cent., in August fourteen, in September sixteen.<sup>2</sup>

These were years when nature was unfavourable: in 1541 there was drought and pestilence, and the king directed the bishops to have litanies said in every parish: in 1543 there were floods, and enormously high prices for all provisions, and the mayor and aldermen of London made self-denying ordinances about their dinners and suppers, and in 1544 prices were so bad that they borrowed of the crafts £1000 to buy wheat from the Baltic, and so again in 1545, and in June 1546; not till September 1547 was there plenty, when peace with France and a good harvest brought wheat down to 10s. a quarter.<sup>3</sup>

To return to 1544: the other statutes of the session were mostly of very ordinary kinds, for the rebuilding of houses, for instance, summoning of jurors in *nisi prius*, payment of Welsh parliament-men: but there are two that need some exposition, about the Six Articles and about canon law.<sup>4</sup>

The former was due, in part at least, to a reaction against the previous year's aggressiveness of orthodoxy. Good and godly it said, as was the Six Articles Act, by abuse of it secret and untrue accusations and presentments had been conspired: therefore in future no one was to be arrested under the Six Articles except on presentment by a jury of

<sup>1</sup> The loan was on an assessment: and the crafts bore the cost of 500 men for the war in France: Wriothesley, I, p. 148.

<sup>2</sup> *L. and P.* XIX (2), p. li.

<sup>3</sup> Wriothesley, I, pp. 123, 141, 147, 156, 175.

<sup>4</sup> *Cc.* 5, 16.

twelve or on warrant from a councillor or two justices: and the indictment must be within a year, in the case of false doctrine by an authorised preacher within forty days, of the alleged offence. This went far to rob the Six Articles of their terrors: at the same time the Supremacy was as terrible as ever, not only on the statute book but in effect, and on 7 May 1544 it had three more victims, of whom one was Gardiner's nephew and servant German, who had participated in the accusation of Cranmer.

I think that Cranmer has never been accused of vengeance, but this statute and these executions must be taken as marking a high level for his stock, especially with reference to that of his rival Gardiner, and so must the statute<sup>1</sup> reviving the project for a revision of the canon law, confirming meanwhile such canons and constitutions as were not repugnant to the Laws or Statutes of the Realm nor to the Prerogatives of the Regal Crown, and confirming also by anticipation such canons as the revising commission should recommend to the king and he proclaim under his great seal. But Canterbury's prosperity was not enough to make anything out of this project of revision, nor to preclude further attacks upon his position and person. It was apparently in this session<sup>2</sup> that

Sir John Gostwick<sup>3</sup> knight of Bedfordshire, a man of great service in his time but yet papistical, accused him openly in a parliament for his preaching and reading at Sandwich and at Canterbury<sup>4</sup> . . . the king, perceiving that the same came of mere malice, for that he was a stranger in Kent and had not heard my lord neither speak nor read there, knowing thereby that he was set on and made an instrument to serve other men's purposes, his highness marvellously stormed at the matter, calling openly Gostwick *varlet*, and said that he had played a villainous part so to abuse in open parliament the primate of the realm, specially being in favour with his prince as he was; "what will they (quoth the king) do with him when I am gone?"

<sup>1</sup> C. 16: cf. statutes of 1534 and 1536, and convocation's "secret discussion about approaching the king to establish ecclesiastical laws" (and about a bill for the payment of tithe), Feb. 1544, Wilkins, III, p. 868. Also, Cranmer's list of objectionable passages in the canon law, Burnet, IV, p. 520.

<sup>2</sup> Cf. J. Gairdner, *Lollardy*, II, p. 414.

<sup>3</sup> Cf. above, pp. 248, 410, 434, sometimes spelt Gostwike.

<sup>4</sup> Morice, pp. 251, 253: my spelling and punctuation.

And he threatened to make an example of Gostwick unless he apologised to the archbishop, which he did, and was restored to favour.<sup>1</sup> Henry knew that a parliament needed managing, and the more the more was to be done with it, but he could manage with a high hand any parliament-man who attacked him whom the king delighted to honour.

In this year 1544, too, Cranmer received more support on the episcopal bench,<sup>2</sup> and was able to carry further the englishing of public worship. In June he forwarded to his diocesans the king's letters under his signet explaining how the state of Christendom cried out for prayer and how the people had been slack about attending the litany,<sup>3</sup> "partly for lack of good instruction and calling, partly for that they understood no part of such prayers", how therefore he had "set forth certain godly prayers and suffrages in our native English<sup>4</sup> tongue . . . not to be for a month or two observed, and after slenderly considered, as other our injunctions have, to our no little marvel, been used", but to be firmly established.<sup>5</sup> At the same time the litany was issued by the king's printer, and loyal subjects found it "the Godliest hearing that ever was in this realm";<sup>6</sup> the preaching to the Scots of the Word of God (in a form Cardinal Beaton should dislike) was since May<sup>7</sup> one of the conditions of the Scottish treaty, and in September patriotic piety might glow more bright when the council with the queen-regent re-enforced the use of the litany with the news that Henry had captured Boulogne:<sup>8</sup>

<sup>1</sup> And died on April 15, 1545.

<sup>2</sup> Cf. p. 492 below.

<sup>3</sup> Or procession, because recited in procession: Dante (*Inferno*, xx), the other way round, uses litany to mean procession:

"e vidi gente per lo vallon tondo  
venir tacendo e lagrimando, al passo  
che fan le letanie in questo mondo".

<sup>4</sup> Henry was on the eve of invading France.

<sup>5</sup> Wilkins, III, p. 869; and *L. and P.* XIX (1), no. 737, Bonner passing it on to the dean and chapter of St Paul's; there had been English litanies before, cf. Hook, VII, p. 203.

<sup>6</sup> Wriothesley, II, p. 148.

<sup>7</sup> XIX (1), no. 522.

<sup>8</sup> XIX (2), no. 251: in the course of the next year Cranmer's litany, substantially the same as we have now, and probably rather a supplanting than a revision of the 1544 litany, was composed and put into use: cf. A. F. Pollard, *Thomas Cranmer*, pp. 173-4: and XX (1), no. 118 for a recalcitrant parish, XX (2), nos. 79, 89, 95, special orders for the litany, to meet naval and other dangers.

for the rest of the reign the old Latin services were being progressively turned into English.<sup>1</sup>

In April 1544 Wriothesley had succeeded Audley as keeper of the great seal,<sup>2</sup> and in May as lord chancellor. Ever since the crisis of 1540, when the fall of his patron Cromwell had left him to face in an unfriendly council accusations of embezzlement, when he had saved himself by being useful against Cromwell and making terms with Gardiner, Wriothesley had been reckoned a mainstay of the conservative party: but any effect of his promotion was minimised by the accession to his office of secretary of Petre, who (though indeed he was to manage to serve Mary as well as Edward) was reckoned rather of the other side.<sup>3</sup> So was the queen whom Henry left as regent,<sup>4</sup> with Cranmer, Hertford, Thirlby, and Petre as special councillors,<sup>5</sup> Hertford in charge of all armed forces. In episcopal appointments, also, Henry was allowing Cranmer's position to be strengthened.<sup>6</sup> And if Gardiner was still a great man it was much less in planning than in executing, supplying the stores for Hertford's victories over the Scots or performing a diplomatic mission with the emperor or negotiating peace with the French.<sup>7</sup> The imperial ambassador thought<sup>8</sup> Gardiner and Paget "the most influential ministers" and "the councillors most in favour with

<sup>1</sup> Cf. Dixon, II, p. 352; Hook, VII, p. 207; Wilkins, III, p. 873. On 6 May 1545 a new "primer or book of ordinary prayers" was imposed by royal authority, to be taught to the young in English, and to be used in Latin only by those who understood that tongue. Cf. Wilkins, III, pp. 873, 875.

<sup>2</sup> A. F. Pollard, *Inst. Hist. Res. Bul.* VII, p. 92, writes of the marked tendency after Wolsey's fall to prefer keepers to chancellors (and laity to clergy): "The motive was partly financial economy, but still more to assert the crown's complete control of the great seal". And on p. 94 that in England unlike France "the duties of the office were firmly attached to its dignity and its emoluments", and when the king dispensed you from the first you lost all touch with the rest.

<sup>3</sup> Cf. *D.N.B.* and Burnet, I, p. 522.

<sup>4</sup> *L. and P.* XIX (1), nos. 889, 890.

<sup>5</sup> Herbert, p. 511.

<sup>6</sup> Burnet, I, p. 524.

<sup>7</sup> Muller, pp. 113 ff., on 29 Nov. 1545 Paget (at Calais for negotiations with the French and with the Protestant princes) was instructed to conceal from Gardiner (ambassador to the emperor) any overtures from the Protestants: XX (2), no. 890.

<sup>8</sup> M. A. S. Hume, *Sp. Cal.* VIII, no. 152, p. 265, 14 Oct. 1545, and no. 291, p. 425, 6 July 1546, when Van der Delft reported also that he had told Henry that Charles would refer the religious question to the Council—"What Council?" asked the king. [Delft] replied, "the Council of Trent".

the king", and therefore "good instruments for maintaining the existing friendship, and for preventing the protestants from gaining footing or favour here. They have confidently promised me this". It is remarkable that in the last years, even the last months<sup>1</sup> of Henry's life, the imperial ambassador could still report joyfully such a promise, and perhaps the less surprising if his reports on the inside of English politics were not much nearer the truth than ambassadorial reports on such subjects generally are. Henry kept his council so balanced that he could most easily handle it, certainly allowed no members of it a position of influence in the sense indicated, and cannot have been unaware that the provisions he was making for the council after his death would rather tip the balance the other way.

The conservatives, or reactionaries, made indeed one more great attempt to get rid of Cranmer, and it failed even more hopelessly than its predecessors.

When they told the king that, the archbishop being of his privy counsaile, no man durst object matter against him unless he were first committed unto durance which being done men would be bold to tell the truth and say their consciences: upon this persuasion of theirs, the king granted unto them that they should call him the next day before them, and as they saw cause so to commit him to the Tower.

But Henry privately warned Cranmer that they were trying to persuade him that the archbishop "and his learned men had sown such doctrine in the realm that all men almost were infected with heresy", and that his committal had been authorised. Cranmer "was very well content

<sup>1</sup> Again six weeks later he wrote "the King and the principal members of his Council, of whom the Lord Chancellor (Wriothesley), Paget, and the Bishop of Winchester, are the leaders, are entirely devoted to your Majesty's interests. It is true they make no secret of their objection to see any increase in the power of our holy father the Pope, who is their enemy; but I can perceive no indication of their having any understanding with the Protestants; except that they will not conform or submit to a Council presided over by the Pope; which is easily understood, for the reason already mentioned. Apparently all their opposition would cease if your Majesty were yourself to convoke and preside over the Council, and thus Paget himself told me in confidence": *Sp. Cal.* VIII, no. 308: cf. p. 520 below. In Dec. 1544 a papal bull had summoned a General Council to Trent next Lent (*L. and P.* XIX (2), no. 773): it actually began sitting in December 1545.



to be committed to the Tower for the trial of his doctrine, so that he might be indifferently heard”.

Oh Lord God! (quoth the king) what simplicity have you, so to permit yourself to be imprisoned, that every enemy of yours may take vantage against you. Do not you think that if they have you once in prison, three or four false knaves will be soon procured to witness against you and to condemn you, which else, now being at your liberty, dare not once open their lips or appear before your face. . . . And therefore I will that you to-morrow come to the counsaile, who no doubt will send for you, and when they break this matter unto you require them that, being one of them, you may have thus much favour as they would have themselves, that is, to have your accusers brought before you:

and if that were refused, “then appeal you from them to our person, and give to them this ring, . . . which ring they well know that I use it to none other purpose but to call matters from the counsaile unto mine own hands”.

Next morning Cranmer was not only sent for, but when he came to the door “was not permitted to enter into the counsaile chamber, but stood without the door amongst serving-men, and lackeys above three quarters of an hour, many counsellors and other men going in and out”. Cranmer’s secretary did not like the look of it, and went to tell Dr Butts, “who by and by came and kept my lord company” a little, and went and told the king “my lord of Canterbury is become a lackey or a serving-man; for well I wot he hath stood among them this hour almost at the counsaile chamber door, so that I was ashamed to keep him company there any longer”. “It is well enough”, said the king, “I shall talk with them by and by.”

“Anon my lord Cranmer was called into the counsaile”, and told of the complaints that he had “infected the whole realm with heresy and therefore it was the king’s pleasure that they should commit him to the Tower”: no appeal to be faced with his accusers would serve, so finally, “I am sorry, my lords, (quoth my lord Cranmer) that you drive me unto this exigent, to appeal from you to the king’s majesty”, and with that produced the ring.

The lord Russell swore a great oath and said, "Did not I tell you, my lords, what would come of this matter? I knew right well that the king would never permit my lord of Canterbury to have such a blemish as to be imprisoned, unless it were for high treason!" And as the manner was, when they had once received that ring, they left off their matter, and went all unto the king's person both with his token and the cause.

Henry taunted them with their arrogance and indiscretion, and bade them understand "that I account my lord of Canterbury as faithful a man towards me as ever was prelate in this realm, and one to whom I am many ways beholding, by the faith I owe unto God (and so laid his hand upon his breast), and therefore whoso loveth me (said he) will regard him thereafter". And then all, and especially Norfolk, tried to persuade the king that they had meant no harm, but only that the archbishop "might after his trial be set at liberty to his more glory". Norfolk ought to have known well enough, and was soon to learn too well, that the Tower was an engine immeasurably too deadly to be the instrument of anything but terror. At any rate, against Cranmer "never no more after no man durst spurn during the king Henry's life":<sup>1</sup> and perhaps after Suffolk's<sup>2</sup> death (August 1545) he was the one man on earth for whom the king felt some affection.

Probably this incident in particular, and in general the feeling that his councillors harboured malice one to another,<sup>3</sup> that they utilised for competition some of the energy which belonged properly (with all their powers) to service and obedience, probably such feeling was the motive of the speech with which Henry prorogued parliament on Christmas Eve 1545; but before dealing with that speech it will be well to summarise the parliamentary work of the year.

Parliament had been summoned for 30 January 1545; there are no records of a meeting at that time, and the letters which Henry drafted in January for a benevolence explained the necessity of showing Francis

<sup>1</sup> Morice, pp. 254-8: mostly my spelling.

<sup>2</sup> Cf. Hall, II, p. 353: "a hardy gentleman, and yet not so hardy, as of almost all estates and degrees of men—high and low, rich and poor—heartily beloved, and his death of them much lamented".

<sup>3</sup> Morice, p. 258.

that he had "to do with a prince and a nation which have lost no piece of the virtue of their progenitors": the necessity arose from Henry's rights against France, and his league with the emperor for the benefit of Christendom: he knew from experience his people so loving that they would as gladly contribute the needful by way of benevolence as if it were granted by parliament, and so he forbore troubling them to travel to Westminster.<sup>1</sup> By autumn government was in financial straits again,<sup>2</sup> and parliament getting more and more necessary, so that on November 23 the knights and burgesses elected in the previous December met at Westminster with the lords, and the king in person. The first important business, on November 27, was the reading of a bill for the abolition of heresy; this bill had a strange fate: on its first reading it was handed to a committee presided over (naturally) by Cranmer and composed in general not of the fiercest heresy-hunters.<sup>3</sup> It is difficult to believe that such a bill can have been introduced on any initiative but that of the Supreme Head: and yet on its second reading, "after a long examination", it was sent back to the same committee: it had not only a third but a fourth reading before it was handed (28 Nov. 1545) to the royal solicitor for engrossing, and after that there was a fifth reading (5 Dec. 1545) at which it was carried *nemine repugnante*, and at last on December 7 it was sent to the house of commons,<sup>4</sup> and that is the last that is known of it. It has been suggested<sup>5</sup> that the object was to propitiate a clamour against growing heresies: if so, the wisdom of the method is very dubious: and anyway, it is clear enough that if the bill was not introduced without Henry's full approval (as it certainly was not) then a bill on religion, introduced with Henry's full approval, was subjected to a great deal of discussion, and was not passed into law.<sup>6</sup> Another bill which failed in this session was one against perjury.<sup>7</sup> A Usury Act fixed the maximum rate of interest at ten per cent.<sup>8</sup> A

<sup>1</sup> *L. and P.* xx (1), no. 17.

<sup>2</sup> Cf. below, p. 504, n. 1.

<sup>3</sup> Wm. Pawlett lord St John, Hertford, Shrewsbury, Goodrich of Ely, Canon of Salisbury, Heath of Worcester, Delawar, Morley, and Ferrers: *L.J.* 1, p. 269.

<sup>4</sup> *L.J.* 1, p. 272.

<sup>5</sup> By Gairdner, *Lollardy*, II, p. 423.

<sup>6</sup> *L. and P.* xx (2), no. 1030, Petre to Paget, Dec. 24, "The bill of books, albeit it was at the beginning set earnestly forward, is finally dashed in the Common House".

<sup>7</sup> *L.J.* 1, p. 274, second reading on Dec. 12.

<sup>8</sup> 37 H. VIII c. 9.

Slanders Act<sup>1</sup> made it felony anonymously to spread accusations of treason. And a final Disendowment Act dealt with colleges and chantries.<sup>2</sup>

According to the preamble the successors of founders, or persons claiming to be such, had been dissolving these establishments, when their property would have been much better used for the king's wars: so all dissolutions since 4 February 1536 were vested in the king, all surrenders to him or grants by him were validated: he might appoint commissioners to enter into such colleges and to vest their property in him: suits affecting him should be tried in the Court of Augmentations, suits between subjects at common law. This was no doubt the principal bill of the session, this and the two<sup>3</sup> by which clergy and laity granted subsidies. When the speaker made the usual speech on submitting the bills for royal assent, instead of the usual answer from the chancellor there was a long speech from the king himself, reported in Hall.<sup>4</sup>

The chancellor, said Henry, was naturally "not so able to open and set forth my mind and meaning, and the secrets of my heart, in so plain and ample manner as I myself": he thanked his beloved commons for their praises, which reminded him of his duty to thank God for what poor qualities he had, and to acquire more: then he thanked them again,

because that you considering our great charges (not for our pleasure but for your defence, not for our gain but to our great cost)... have

<sup>1</sup> C. 10, such accusations if made at all should be signed, and affirmed before the king or his counsell: c. 1 regulated appointment of *custos rotulorum* and clerk of peace: c. 6 fixed the penalties for burning frames of timber for houses, cutting heads of ponds, burning carts loaded with coal or heaps of wood, barking fruit-trees, maiming beasts: c. 7 abolished six weeks' sessions (quarter would suffice): c. 17 authorised doctors of the civil law, being laymen or married, to exercise ecclesiastical jurisdiction, cf. p. 480 above: c. 21 permitted amalgamation of parishes in certain cases: cc. 24 and 25, subsidies clerical and lay: the rest were economic and legal adjustments of the usual kind.

<sup>2</sup> C. 4, this project had been in the air since May: *L. and P.* xx (1), nos. 700, 984 (the latter Chapuys on Henry's wants, in spite of the chantries and of the debasement of the coinage).

<sup>3</sup> Cc. 24, 25: the colleges of Oxford, Cambridge, Winchester, and Eton were exempted, and so were the Cinque Ports and the four northern counties.

<sup>4</sup> II, p. 354.

freely of your own mind granted to us a certain subsidy, here in an act specified, which verily we take in good part, regarding more your kindness than the profit thereof. . . . Beside this hearty kindness, I cannot a little rejoice when I consider the perfect trust and sure confidence which you have put in me, as men having undoubted hope and unfeigned belief in my good doings and just proceedings for you, without my desire or request have committed to mine order and disposition all Chantries, Colleges, Hospitals, and other places specified in a certain act, firmly trusting that I will order them to the glory of God and the profit of the commonwealth. Surely if I, contrary to your expectation, should suffer the ministers of the Church to decay, or learning (which is so great a jewel) to be minished, or poor and miserable people to be unrelieved, you might say that I, being put in so special a trust as I am in this case, were no trusty friend to you, nor charitable man to mine even christian, neither a lover of the public wealth, nor yet one that feared God, to whom account must be rendered of all our doings. Doubt not, I pray you, but your expectation shall be served, more Godly and goodly than you will wish or desire, as hereafter you shall plainly perceive.

Now, sithence I find such kindness on your part toward me, I cannot choose but love and favour you, affirming that no prince in the world more favoureth his subjects than I do you, nor no subjects or commons more love and obey their sovereign lord, than I perceive you do me,<sup>1</sup> for whose defence my treasure shall not be hidden nor if necessity require my person shall not be unadventured: yet although I with you and you with me be in this perfect love and concord, this friendly amity cannot continue except both you my lords temporal, and you my lords spiritual, and you my loving subjects, study and take pain to amend one thing, which surely is amiss and far out of order, to the which I most heartily require you, which is, that charity and concord is not amongst you, but discord and dissension beareth rule in every place.<sup>2</sup> St Paul sayeth to the Corinthians, in the fourteenth chapter, *Charity is gentle, Charity is not envious, Charity is not proud*, and so forth in the said chapter: Behold then, what love and Charity is amongst you, when the one calleth the other Heretic and Anabaptist, and he calleth him again

<sup>1</sup> *L. and P.* xx (1), no. 984, Chapuys reported that every man of wit in England had blasphemed at the war and most of them call Boulogne "the new Milan" (which had cost France so dear): but on the whole Henry's estimate of public opinion seems to have been the more correct.

<sup>2</sup> At this very time the pope was trying to deal with similar evils: for the calling of the Council of Trent, cf. p. 493, n. 1 above.

Papist, Hypocrite, and Pharisee. Be these tokens of charity amongst you? Are these the signs of fraternal love between you? No, no, I assure you that this lack of Charity among yourselves will be the hindrance and assuaging of the fervent love between us, as I said before, except this would be salved and clearly made whole.

I must needs judge the fault and occasion of this discord to be partly by the negligence of you the fathers and preachers of the spirituality. For if I know a man which liveth in adultery, I must judge him a lecherous and a carnal person: if I see a man boast and brag himself, I cannot but deem him a proud man. I see and hear daily that you of the clergy preach one against another, teach one contrary to another, inveigh one against another without Charity or discretion. Some be too stiff in their old *Mumpsimus*, others be too busy and curious in their new *Sumpsimus*.<sup>1</sup> Thus all men almost be in variety and discord, and few or none preach truly or sincerely the word of God, according as they ought to do. Shall I now judge you charitable persons doing this? No, no, I cannot so do: alas, how can the poor souls live in concord when you preachers sow amongst them in your sermons debate and discord? Of you they look for light, and you bring them to darkness. Amend these crimes, I exhort you, and set forth God's word both by true preaching and good example-giving: or else I, whom God hath appointed his Vicar and high minister here, will see these divisions extinct and these enormities corrected, according to my very duty, or else I am an unprofitable servant and untrue officer.

Although, as I say, the spiritual men be in some fault that charity is not kept amongst you, yet you of the temporality be not clean and unspotted of malice and envy, for you rail on Bishops, speak slanderously of Priests, and rebuke and taunt preachers, both contrary to good order and Christian fraternity. If you know surely that a bishop or preacher erreth or teacheth perverse doctrine, come and declare it to some of our Counsayl or to us, to whom is committed the high authority to reform and order such causes and behaviours: and be not judges yourselves of your own fantastical opinions and vain expositions, for in such high causes ye may lightly err. And although you be permitted to read holy scripture and to have the word of God in your mother-tongue, you must understand that it is licensed you so to do only to inform your own conscience and to instruct your children and family, and not to dispute and make scripture a railing and a taunting stock against Priests (as

<sup>1</sup> Cf. *L. and P.* xviii (2), no. 546, p. 378, no. x: the priest who all his life had said *mumpsimus*, and would not have any truck with this new-fangled *sumpsimus*, was as well known as is Mrs Malaprop.

many light persons do). I am very sorry to know and hear how un-reverently that most precious jewel, the word of God, is disputed rhymed sung and jangled in every Alehouse and Tavern, contrary to the true meaning and doctrine of the same. And yet, I am even as much sorry that the readers of the same follow it, in doing, so faintly and coldly: for of this I am sure, that charity was never so faint among you and virtuous and Godly living was never less used, nor God himself amongst Christians was never less revered honoured or served. Therefore, as I said before, be in charity with one another, like brother and brother; love, dread, and serve God (to the which I as your supreme head and sovereign lord require you), and then I doubt not but that love and league that I spoke of in the beginning, shall never be dissolved or broken between us.

And the making of laws, which be now made and concluded, I exhort you the makers to be as diligent in putting them in execution as you were in making and furthering the same, or else your labour shall be in vain and your commonwealth nothing relieved. Now to your petition, concerning our royal assent, to be given to such acts as hath passed both houses. They shall be read openly, that ye may hear them.

Then, adds Hall, they were openly read, and "to many his grace assented, and divers he assented not unto".

"This the king's oration", says Hall again, "was to his subjects there present such comfort, that the like joy could not be unto them in this world." Petre told Paget that the speech was "such a joy and marvellous comfort as I reckon this day one of the happiest of my life", and Paget wishes himself "bound to have eaten fish this twelvemonth (as ill as it is for me) upon conditions that I had heard *divinam illam tantae Majestatis et tam reverendam orationem*". When Henry's secretaries bartered encomiums on their master, the interceptor is not bound to take such coinage at its face value: and if Hall is a less official, he is hardly a less obliged, panegyrist. Yet the speech was not then without effect, and is not now undeserving of attention. That Henry continued, in spite of all reservations and of all his offences to a modern judgment, agreeable and popular with both the mass and the weight of his subjects, seems true: it is certain that he continued, indeed that he grew more and more, impressive, and this speech of his may serve

as a reminder that to leave the personal eloquence of the monarch<sup>1</sup> out of the account of Tudor government is not less misleading than to leave out of the composition of English politics now the persuasive resources of newspaper magnates or the oratory of party leaders.

What was the particular occasion for this sermon against discord (whether, for instance, the attempt to ruin Cranmer, or perhaps the parliamentary dissensions of the expiring session, or the desire to be on good terms with both Protestants and Catholics abroad, and to that end to avoid religious acerbities at home<sup>2</sup>) cannot be certainly known, but the policy which it expounded was permanent, remained till a Supreme Head had had his head cut off<sup>3</sup> the fixed policy of the Anglican establishment, the policy that all the resources of the Supremacy should be used to make the clergy with modesty and moderation control tradition by sound learning, expound those Christian certainties which suffice and privately endeavour to resolve such dubieties as might offend; and that those resources should be used also to make the laity respectful of the clergy, giving it the benefit of doubt, and when error were beyond doubt referring to constituted authority, using scripture and conscience for personal and family edification and not for public controversy. And it was indeed the failure of this policy which broke the love and league between king and people.

It is worth noting, too, that when Henry spoke to the members of parliament as law-makers, he hastened to recommend diligence in enforcement, well knowing that those to whom he spoke were to name the collectors of the subsidy, that their brothers and cousins would be the assessors of it, and that in general they were the administrators of his laws, they and their brothers and cousins: and his the laws were, in spite of his looseness in speaking of their bills as made and concluded when there were "divers he assented not unto".

What the mind was really like which made the speech, that may be

<sup>1</sup> Of Henry VIII and Elizabeth, anyway, and with the others if the importance was not positive it was negative.

<sup>2</sup> Cf. *Lollardy*, II, p. 432.

<sup>3</sup> At least two editions of the speech were published in 1642, and cf. p. 483 above. And cf. Charles I's Declaration prefixed to the Articles of Religion, Nov. 1628, printed in most prayer-books.



much disputed: but it seems certain that it had force and direction, that its hypocrisy, if there were any, was neither self-conscious nor unintellectual, and that if it were not damnably complacent at least it was serenely contented to accept the highest responsibilities.<sup>1</sup>

As the monarch cared for the church, so also he used churchmen to look after his kingdom, and here again he showed his leaning towards Cranmer by not only transferring Holgate from Llandaff to the archbishopric of York, but also by making him President of the Council in the North Parts (1545). That council was provided with a nucleus of permanent members, to be continually present so that business need never wait; and it was authorised to appoint "to poor suitors having no money . . . counsaile and other requisites, without paying of any money for the same"; and directed to hang up publicly a table of fees, and to sit for one month every year at York, one at Newcastle, one at Hull, one at Durham, and to "give strict charge and commandment to the people to conform themselves in all things to the observation of such laws ordinances and determinations as be made passed and agreed upon by his Grace's Parliament and Clergy", especially the abolishing of Rome's pretended power and of vain holidays: and to see that "the poor people be not oppressed" by enclosing of commons, taking of gressoms, raising of rents. Difficult questions of law were to be referred to the judges at Westminster, and of fact to the council attendant upon the king's person.

<sup>1</sup> And sufficiently sure of itself to be as far as possible from jealousy about sharing responsibility. This is shown by Henry's use of parliament throughout the second half of his reign. There is a reinforcement of the view that this was a consistent policy in the council's letter to Sadler, on mission in Scotland, 21 Aug. 1543 (*L. and P.* xviii (2), no. 21), with its insistence on the treaty's being ratified with the authority of the Scotch parliament, which Henry cares for more than the presence of this or that particular person. The English council seems to think the Scotch parliament rather feeble, indeed (which there "they commit to few or no persons as they think good, as they seem to have done in this case"), but if parliamentary ratification is insisted on, the treaty must get the queen's and governor's seals, with express mention of the participation of all the estates. And for an instance how near the word *parliament* was to the top of Henry's mind, cf. xviii (2), no. 184, his use of it as a verb meaning to discuss and negotiate. And for official magnification of parliament, cf. Dasent, *A.P.C.* 1, p. 289, a brawl in Tothill Fields arising out of a game of primero thought by the Privy Council to be aggravated "as both the place being so near the Palace, and the time also, the Parliament then sitting".

And if it happen that any man, of what degree soever he be, shall, upon such a ground and cause as the law will allow for good and reasonable and shall so appear unto the said President and Counsaile, demand surety of peace or justice against any great lord of the country, the said president shall in that case grant the petition of the poorest man against the richest and greatest lord, whether he be of his Counsaile or no.<sup>1</sup>

It could not always work out like that in this world, and the poor commons of the north cannot all have shared<sup>2</sup> the royal opinion about holidays, but there was more administration and more judicature in the north than ever before, less inequality and less fear of the Scots: south also there were no overmighty subjects, and there were more ships and better than ever, and for the first time since Joan of Arc England held more of France than only Calais.

The beginning of 1546 found Cranmer still moving with a moderate haste to the reformation of the church, for on January 24 he wrote recommending the king to direct his archbishops to abolish certain ceremonies that had tended to superstition, but yet not merely to abolish without explanation but to "set forth some doctrine therewith . . . for to satisfy the conscience of the people: for if the honouring of the cross, as creeping and kneeling thereunto, be taken away, it shall seem to many that be ignorant that the honour of Christ is taken away, unless some good teaching be set forth withal to instruct them sufficiently therein".<sup>3</sup> But this was about the last flicker of reformation in particulars, though Henry's arrangements for his son show clearly enough that he had no intention of any general reversion.

The reasons for the staying of reformation and for the prosecution of heretics in 1546 may probably be found in the state of Europe. 1545 had opened with the pope taking a very high line, and making

<sup>1</sup> *S.P.* v (1836), pp. 402 ff.

<sup>2</sup> Though many more of them can than would now, when they are nearly all wage-earners.

<sup>3</sup> Cranmer, *Works*, II, pp. 414, 415. Cf. Gardiner's *Letters*, pp. 255 ff., Feb. 1547, on the distinction between images and idols, and so on, and the proper use of holy water, and "the special gift of curation, ministered by the kings of this realm, not of their own strength, but by invocation of the name of God, hath been used to be distributed in rings of gold or silver".

"earnest pretence to declare his curse against your Majesty";<sup>1</sup> and Henry had accordingly thought well to try for an alliance with Saxony, Hesse, Denmark, and the Hansa, protesting that no prince or man in the world desired more the glory of God and the true setting forth of his word.<sup>2</sup> But the alliance did not come easy, Charles showed no eagerness for aggression, and by 16 January 1546 Gardiner had succeeded in making a new treaty with him.<sup>3</sup> In these circumstances the best diplomatic reliance might be to hang on to the emperor, and the cheapest way of attaching the emperor a display of orthodoxy. Another factor tending the same way was Gardiner's return to England and to the council,<sup>4</sup> and the acute financial difficulties<sup>5</sup> formed another. But financial difficulties were not an English peculiarity: in that way Charles and Francis suffered at least equally.<sup>6</sup> Moreover, Charles V and Francis deeply distrusted each other, and so did Charles and Paul III. At the very beginning of 1546 the imperialist envoy at Paris reported<sup>7</sup> that the French understood "perfectly that henceforward the English will

<sup>1</sup> "Which is esteemed very vain to him that God hath blessed", added Bucler, the queen's secretary, then at Antwerp on his way to Cassel (*L. and P.* xx (1), no. 172, 20 Feb. 1545: cf. Reg. Pole, *Epistolarum* . . ., Brescia, 1744, p. 80, reporting that Henry used no argument more with the multitude than the favour of God evidenced by his prosperity. R. Pole added, p. 160, that his main object was to stir up all princes and ministers against one who was such a calamity to the Church). Towards the end of the previous year the pope had upbraided the emperor (for the proceedings of the diet of Spire) as a Lutheran, had said that there should be a universal council in Germany, but without heretics, and without arms, and "you are not competent to decide who are to be chosen thereto, but that belongs to our jurisdiction": xix (2), no. 135. And from mid-Sept. to mid-Oct. there were Protestant envoys with Henry at Windsor: xx (2), p. xxxix.

<sup>2</sup> xx (1), no. 91: cf. also nos. 90, 212, 350. This seems to have been the year of Henry's greatest strength in mercenary force: cf. *L. and P.* xx (1), pp. xi, xxxi, xxxviii, 1, and references there given. In April, fearing a French reinforcement of the Scots, Henry actually promised to strengthen Shrewsbury, who was commissioned to raise 30,000 men in the north, with 1500 Spaniards, 4000 Germans, 400 or 500 mounted hackbutters, 500 or 600 lances. There were negotiations with Hesse and Saxony for as many as 10,000 (cf. Dasent, 1, p. 196, Privy Council ordering to be brought before them a mercenary who had committed a murder at Islington), but see xx (2), pp. xvi ff. for the smaller number of Hessians actually engaged, how expensive they were, and how useless.

<sup>3</sup> Muller, p. 118, referring to xxi (1), nos. 8, 71, 212.

<sup>4</sup> Muller p. 119, referring to xxi (1), nos. 432, 439.

<sup>5</sup> xx (2), p. liii, Norfolk (lord high treasurer) on the financial prospects.

<sup>6</sup> *Sp. Cal.* viii, nos. 180, 190, 195.

<sup>7</sup> *Sp. Cal.* viii, no. 180.

be more difficult to deal with than ever", and that they were "astounded at the spirit of the English". A few days later the English council sent to Charles's ambassador certain "merchants who complained of the Inquisition in Spain", with the result that Charles instructed the Spanish authorities not to molest English subjects.<sup>1</sup> In the middle of February Henry was taking into his privy council Nicholas Wotton, whom imperialist diplomats had always found "a harsh man".<sup>2</sup> At the end of February Charles was very anxious that Henry should be warned of the duplicity of Francis, who was planning to cozen him with the promise of a marriage between Edward and Mary Stuart, an empty promise to a schismatic since "no pledge given to such a person would hold good; or would not at once be annulled by the Pope. In addition to this, they say a separate protest might be secretly made in the name of the girl".<sup>3</sup> Nevertheless, in April there began between England and France a peace conference which resulted in a treaty proclaimed at Whitsuntide.<sup>4</sup> On the whole it is clearly unnecessary to believe that Henry was at all moved by fear: he was under no obligation to conciliate protestant princes:<sup>6</sup> a display of orthodoxy perhaps suited his private inclination, it was certainly not imposed upon him by public necessity, but it had a certain diplomatic convenience. Similarly, it was certainly not imposed by courtiers or ministers, but it did concur with the absence of Hertford and Lisle on military and naval service<sup>5</sup> and the presence of Norfolk, Gardiner, Wriothesley, and Paget.

<sup>1</sup> And not to question them about the king "as has already been ordered, unless Englishmen begin by saying anything scandalous about the pope": *Sp. Cal.* VIII, p. 291.

<sup>2</sup> *Sp. Cal.* VIII, no. 193.

<sup>3</sup> *Sp. Cal.* VIII, no. 203, p. 315. Cf. with Cranmer's protest, p. 195 above.

<sup>4</sup> Hall, II, p. 360: "yet surely both mistrusted the continuance of the same, considering the old proverb, '*that the eye seeth the heart rueth*,' for the Frenchmen still longed for Boulogne, and the Englishmen minded not to give it over".

<sup>5</sup> And there was occurring at this time one of those almost sudden shifts of generations which do happen sometimes: cf. Hooper to Bullinger, 27 Jan. 1546, in Hastings Robinson, *Original Letters*, I, p. 36: "The chief supporters of the gospel in England are dying every hour: many very illustrious personages have departed within these two years: the lord chancellor Audley, the duke of Suffolk, sir Edw. Baynton the queen's first lord of the bedchamber; Poinings, the king's deputy at Boulogne; sir Thos. Wyatt, known throughout the world for his noble qualities, and a most zealous defender of yours and Christ's religion; Dr Butts, a physician who had charge of the king's person: all these were of the privy council, and real favourers of the gospel...".

<sup>6</sup> Civil war in Germany was visibly approaching.

The first sign of a more meticulous orthodoxy was the rejection of Cranmer's letter<sup>1</sup> about superstitious ceremonies;

for when Master Denny had moved the king thereunto, the king made this answer, "I am now otherwise resolved, for you shall send my lord of Canterbury word that, since I spoke with him, I have received letters from my lord of Winchester, now being on the other side of the sea, about the conclusion of a league between us the emperor and the French king, and he writeth plainly unto us that the league will not prosper nor go forward if we make any other innovation. . .".

So wrote Foxe,<sup>2</sup> with good evidence and probability.

The more positive ostentation of orthodoxy<sup>3</sup> began after Gardiner's return, and the first victim was Dr Crome:<sup>4</sup> he made the mistake of carrying the logic of Henry's action a step further than Henry's will was prepared for, preaching against the conception of the mass as a sacrifice for sin and especially against private masses and prayers for the dead on the ground

that if trentals and chantry masses could avail the souls in purgatory, then did the parliament not well in giving away monasteries colleges and chantries, which served principally to that purpose. But if the parliament did well (as no man could deny) in dissolving them and bestowing the same upon the king, then is it a plain case that such chantries and private masses do nothing to confer and relieve them in purgatory.<sup>5</sup>

Crome was ordered to correct himself in another sermon, at Paul's Cross on 9 May 1546: his method of correction was to say that the king and his parliament had taken the pope by the heel and hurled him out, but yet his staff remained, the conception of the mass as a sacrifice that

<sup>1</sup> Cf. p. 503 above.

<sup>2</sup> John Foxe, *Acts and Monuments* (ed. Townsend and Cattle), v, p. 562.

<sup>3</sup> Morality was being publicly upheld as well, and at Easter the stews were suppressed by royal proclamation: Wriothesley, i, p. 163.

<sup>4</sup> According to Van der Delft, he was "much liked by the King": writing to Charles V, *Sp. Cal.* viii, no. 262, May 14. At the end of 1540 and beginning of 1541 he had already preached a rather "sacramentarian" sermon, and got off with a rather unsatisfactory retraction. He was certainly popular, Hilles to Bullinger, 1541, in Hastings Robinson, *Original Letters*, i, pp. 211-15.

<sup>5</sup> Foxe, v, p. 537: *L. and P.* xxi (1), p. xlix.

puts away sins:<sup>1</sup> he added, "I come not hither to recant, nor yet am I commanded to recant, nor, God willing, I will not recant".<sup>2</sup> Next day he was "examined before the Council,<sup>3</sup> present also the Bishops of London and Worcester and such of the King's Chaplains as the day before were appointed to be at his sermon at Paul's Cross, . . . and thereupon committed to a chamber to answer to certain interrogatories".

His examiners saw reason to believe that Crome had comforters and sympathisers, and four days later were sending to the secretary "the effect of the proceedings with Latimer and the rest here in examination".<sup>4</sup> One Thomas Kirby was to be examined for sacramental error when the duke of Norfolk went down to Suffolk, and Shaxton was sent for from the same county; John Lascelles,<sup>5</sup> and a Scottish friar, Dr Huick,<sup>6</sup> and John Taylor,<sup>7</sup> and a preacher at Tenterden<sup>8</sup> were also apprehended. On May 14 the council sent the king, at his request, the articles to be signed by Crome, and a report of their proceedings against the others: Latimer had sworn to answer interrogatories, but then changed his mind,

noting the proceeding therein to be more extreme than should be ministered unto him if he lived under the Turk . . . ; for that he said it was sore to answer for another man's fact, and besides he said that he doubted whether it were His Highness's pleasure that he should be thus called and examined; desiring therefore to speak with His Majesty himself. . . .<sup>9</sup> And as for the matter of the interrogatories, it was plainly

<sup>1</sup> To Crome it was "a sacrifice of thanks to our only Shepherd for His once offered offering, and is a commemoration of His death".

<sup>2</sup> *L. and P.* xvi, no. 814, and *Lollardy*, II, pp. 437 ff.

<sup>3</sup> Chancellor, Privy Seal, Essex, Durham, Winchester, Gage, Wingfield: Dasent, I, p. 414.

<sup>4</sup> Dasent, I, p. 417: they were at Greenwich and the king at Westminster, as very frequently throughout the year.

<sup>5</sup> Burnet suggests the same that precipitated the ruin of Catharine Howard: cf. J. G. Nichols, *Narratives of the Reformation*, p. 43.

<sup>6</sup> He was already in attendance on the council, in connection with a quarrel between him and his wife: cf. Dasent, I, p. 417, as also for Latimer and Kirby.

<sup>7</sup> Afterwards bishop of Lincoln.

<sup>8</sup> *S.P.* I, p. 844.

<sup>9</sup> He said he had been jockeyed out of his bishopric, when Henry had not really wanted him to resign, and that Gardiner was his personal enemy.

declared that they were not captious, whereby any danger might ensue to him that purposed truly and plainly to answer them.

And as for the doubt of his majesty's pleasure, the councillors said they did not mind so much the slight on them as the injury to his majesty if he must speak with every difficult individual, "as though no credit or estimation should, nowadays, be given to His Highness's Councaill, or . . . ministers, who in their charges and offices have their ordinary commissions remaining".<sup>1</sup> Lascelles would not answer "to that part of his conference with Crome that toucheth Scripture matter, without he have the King's Majesty's express commandment, with his protection". Taylor was much the same, but not so bold. "And as to the Scot, he is more meet for Dunbar than for London, for neither hath he any manner of wit or learning meet for a preacher, but is a very ignorant; and hath framed his sayings after his audience, as, to be rid, he will say now what you will bid him." As to Huick, they appear to have been interested more in his marital than in his doctrinal delinquencies, and were especially indignant at his allegation "that the King's Majesty commanded him to put his wife out of doors, without calling her before justice, or common officer, or hearing of her by any indifferent persons; wherein we told him, he dealt not well, so to abuse His Majesty's clemency, whose lesson to us all is, as He is a Prince of justice, by him learned of his most noble and prudent Father, *Audi alteram partem*".<sup>2</sup>

On May 16 the commission<sup>3</sup> whose enquiries in Essex under the Six Articles had condemned five persons for errors about the sacrament, were directed by the council to respite two and execute three,<sup>4</sup> and, although they had reported more infection "than has been seen these three or four years", were further directed "that unless they should see apparent infection of a great number . . . or any that were notably

<sup>1</sup> He did answer the interrogatories in the end, without making them much wiser, except that "he is, as Crome was": but the bishop of Worcester "and the rest of the doctors" were to talk frankly with him, in the matter of the articles, "to fish out the bottom of his stomach".

<sup>2</sup> *S.P.* I, pp. 848-50.

<sup>3</sup> Bonner, Rich, and nine others.

<sup>4</sup> *L. and P.* XXI (1), no. 836, and Dasent, I, p. 418.

detected unto them, they should for this time dissolve their assembly".<sup>1</sup> Neither did Crome and his associates meet the end that had seemed likely:<sup>2</sup> Crome indeed at last did make a proper recantation (27 June 1546),<sup>3</sup> and this was believed<sup>4</sup> to have "had a very good effect upon the common people, who are greatly affected". But before the Crome Case was thus ended, another had been begun which stretched further and has been better remembered. "The eighteenth day of June, 1546, were arraigned at the Guildhall, for heresy, Dr Nicholas Shaxton, sometime bishop of Salisbury; Nicholas White, of London, gentleman; Anne Kyme, alias Anne Askew, gentlewoman...; and John Hadlam, of Essex, tailor."<sup>5</sup> Of these Askew is the most interesting, and then Shaxton.

Anne Askew's trouble, like Crome's, was not her first, and her troubles, like Huick's, were partly matrimonial. It was on May 23 that the toils closed round her, when "Two of the Yeomen of the Chamber were sent [by the council] to apprehend Sir Robert Wisdom, priest, and had with them letters to one Kyme and his wife for their appearance within ten days after receipt".<sup>6</sup> Wisdom fled to the continent, and Kyme was dismissed to his home, but Anne (who preferred her maiden name of Askew, and refused to acknowledge her marriage, on no ground that seemed reasonable to the council) was committed to Newgate, "for that she was very obstinate and heady in reasoning of matters of religion, wherein she showed herself to be of a naughty opinion".<sup>7</sup>

<sup>1</sup> For more about Crome and his congeners, cf. Dasent, I, pp. 414 (his examination before the Privy Council and the bishops of London and Worcester, and the king's chaplain who had heard the sermon), 419, 420, 421, 423, 433; and cf. Muller, p. 135, admonitions for heretical leanings to Lord T. Howard, Sir E. Warner, and one Wourley clerk of the Pallet Chamber: cf. Dasent, I, pp. 402, 408, 409, 411, 421 (Blostocke, parson of Tenterden).

<sup>2</sup> Except Lascelles, burnt with Anne Askew on July 16: cf. p. 503 below.

<sup>3</sup> Before the "Lord Chancellor of England, Duke of Norfolk, Lord Great Master of the King's Household (St John), with divers others of the King's Councill with the mayor and aldermen, and a great audience of people, and after his sermon he was discharged", having previously been "in ward with one of the King's Councill": Wriothesley, I, p. 167.

<sup>4</sup> At least by Van der Delft, writing to the queen-dowager on July 6, *Sp. Cal.* no. 291, p. 426.

<sup>5</sup> Wriothesley, I, p. 167.

<sup>6</sup> Dasent, I, p. 424.

<sup>7</sup> Dasent, I, p. 462: "likewise one White", who was in error about the Sacrament.



Her husband seems to have turned her out of doors eighteen months or more before, and she went to London, partly intending to try to get her marriage broken but mainly interested in religion. She had been examined by commissioners under the Six Articles, on her views about the Sacrament, and released on bail after great efforts by her friends and some indulgence from Bonner:<sup>1</sup> she was arraigned on 13 June 1545, but acquitted because no witness appeared against her.<sup>2</sup>

But now, a year later, she did not fare so well: on the day after her committal to Newgate<sup>3</sup> she was brought again before the council, and examined about the Sacrament.

Then, after divers words they bade me go by. Then came my lord Lisle,<sup>4</sup> my lord of Essex,<sup>5</sup> and the bishop of Winchester, requiring me earnestly that I should confess the sacrament to be flesh, blood, and bone. Then said I, to my lord Parr and my lord Lisle, that it was a great shame for them to counsel contrary to their knowledge. Whereunto, in few words, they did say, that they would gladly all things were well.

Then the bishop said he would speak with me familiarly. I said, "So did Judas, when he unfriendly betrayed Christ". Then desired the bishop to speak with me alone. But that I refused. He asked me, why. I said, that in the mouth of two or three witnesses every matter should stand, after Christ's and Paul's doctrine.

Then my lord Chancellor<sup>6</sup> began to examine me again of the sacrament. Then I asked him how long he would halt on both sides. Then would he needs know where I found that. I said, in the Scripture. Then he went his way. Then the bishop said I should be burned. I answered, that I had searched all the Scriptures, yet could I never find that either Christ, or his apostles, put any creature to death. Then came to me Dr Cox, and Dr Robinson. In conclusion, we could not agree.

So, in ill-health, and pain, and refused the ministrations of Latimer, she went to Newgate.<sup>7</sup> On June 28 she was arraigned at the Guildhall, with Shaxton, White, and Hadlam. All confessed their heresies,<sup>8</sup> and

<sup>1</sup> *Lollardy*, II, pp. 426, 430.

<sup>2</sup> Wriothsley, I, p. 155.

<sup>3</sup> But apparently she had not actually been taken there, but to the custody of lady Garnish: Foxe, v, p. 544.

<sup>4</sup> Dudley, later duke of Northumberland.

<sup>5</sup> Wm. Parr, the queen's brother.

<sup>6</sup> Had he come into the committee, or had she been taken back to the council?

<sup>7</sup> Foxe, v, pp. 544, 545.

<sup>8</sup> For details of what Anne said about the Sacrament, cf. Foxe, v, pp. 543, 544, 545.

were accordingly convicted without jury.<sup>1</sup> Next day Shaxton and White recanted.

That same day Anne

was sent from Newgate to the sign of the Crown, where Master Rich and the bishop of London, with all their power and flattering words, went about to persuade me from God: but I did not esteem their glosing pretences. Then came there to me Nicholas Shaxton, and counselled me to recant as he had done. I said to him that it had been good for him never to have been born; with many other like words. Then came Rich and one of the council,<sup>2</sup> charging me upon my obedience to shew unto them if I knew any man or woman of my sect. My answer was, that I knew none. Then they asked of my lady of Suffolk, my lady of Sussex, my lady of Hertford, my lady Denny, and my lady Fitzwilliam. To whom I answered, if I should pronounce anything against them, that I were not able to prove it.

Nor would she say who had kept her supplied, except that her maid begged from the prentices, and a man in a blue coat delivered ten shillings and said my lady of Hertford sent it, and another in a violet coat eight shillings, and said it was from my lady Denny.

Then they said, there were of the council that did maintain me: and I said, No. Then they did put me on the rack, because I confessed no ladies or gentlewomen to be of my opinion, and thereon they kept me a long time; and because I lay still, and did not cry, my lord chancellor and Master Rich took pains to rack me with their own hands, till I was nigh dead. Then the lieutenant caused me to be loosed from the rack. Incontinently I swooned, and then they recovered me again. After that I sat two long hours reasoning with my lord chancellor upon the bare floor...<sup>3</sup>

Gardiner complained a year later<sup>4</sup> that the examination of Anne Askew was "utterly misreported". But there seems no doubt that as

<sup>1</sup> *Lollardy*, II, p. 449. The judges commissioned were the lord mayor, Norfolk, St John, Bonner, Heath, the two chief justices and the chief baron, Master of the Rolls, recorder of London, London archdeacon, chancellor, and commissary (Wriothesley, I, p. 168). A very well-informed London merchant [*L. and P.* XXI (1), no. 1180, quoting from Ellis, 2nd series, II, p. 172] did not distinguish between the commission and council—"received their judgement of the lord chancellor and the council to be burnt".

<sup>2</sup> Sir John Baker, cf. J. G. Nichols, *Narratives of the Reformation*, p. 304.

<sup>3</sup> Foxe, v, p. 547: he adds that the lieutenant of the Tower had tried to shield Anne from torture, and that Henry "seemed not very well to like of their so extreme handling of the woman", p. 548.

<sup>4</sup> 21 May 1547, Foxe, VI, p. 31, referred to in *Lollardy*, II, p. 447.

much as has been here used is true enough: she was examined by the council, then by the committee she names, she had her wits about her and the scriptures at her finger tips, and she did not respect the personages who held her fate. She would not deny her disbelief in transubstantiation, and so the council could send her to the Guildhall with the certainty of a conviction. But she had betrayed no associates, so, after conviction, to extract such knowledge as public safety demanded, she was racked,<sup>1</sup> by the authority and by the very hands of the king's highest servants: and what led to this extremity, which was outside the law and which no one liked,<sup>2</sup> was the hope of more convictions.

The seventh day of July was proclamation made...for certain English books which contain pernicious and detestable errors and heresies to be brought in by the last day of August...the text of the New Testament of Tyndale's or Coverdale's translation: the books of Frith, Tyndale, Wycliffe, Joy, Roy, Basiley,<sup>3</sup> Barnes, Coverdale, Turner, and Tracy....<sup>4</sup> The sixteenth of July was burnt in Smithfield John Lascelles, gentleman, Anne Kyme alias Askew, gentlewoman, John Himley, Priest, and John Hadlam, tailor,...and there was present at the execution my lord mayor, my Lord Chancellor of England, the Duke of Norfolk, with the most part of the lords, noblemen, and the King's Councill, with the aldermen of the city of London; and by the King's commandment Dr Shaxton, afore condemned as these persons were, preached there in Smithfield, declaring his error....<sup>5</sup>

Certainly the suppression of error was accompanied with the utmost publicity:<sup>6</sup> but it did not go any further, or strike the most resounding

<sup>1</sup> Cf. Wriothesley, I, p. 168 and Otwell Johnson, *L. and P.* XXI (1), no. 1180.

<sup>2</sup> Unless perhaps Rich and Wriothesley: and their asking Anne whether she was with child may seem to indicate reluctance.

<sup>3</sup> Probably George Bancroft's "Answer that the Preachers of the Gospel at Basel made....".

<sup>4</sup> XXI (1), no. 1233: penalty, fine and imprisonment at the king's pleasure: any book contrary to the "King's Book" was included: and in future any book printed in England must have author's name, printer's name, date, and be submitted to the mayor of the town two days before publication. English books touching religion to be imported only with special licence. And cf. above, p. 396.

<sup>5</sup> Wriothesley, I, pp. 168-70.

<sup>6</sup> And trouble was taken to deprive foreigners of any excuse for misunderstanding the ecclesiastical changes in England: on June 19 the council sent to Sir Thomas Cheinie, on mission to France to attend the dauphin's daughter's christening, a letter warning him and his suite, first not to mention the "feats of the war", or if

possible blow, to deprive Henry of his sixth queen: yet even that had at one time seemed likely. When Wisdom had escaped abroad, Anne Askew had had to be searched for, and it is probable that letters she wrote betrayed her hiding-place, and betrayed also a connection with Catharine Parr.<sup>1</sup> Henry had for some time known that the queen was "very much given to the reading and study of the holy scriptures"<sup>2</sup> and to discussion of "such abuses as in the church then were rife", and allowed her to make bold to debate with him touching religion, "and therein flatly to discover herself".<sup>3</sup> But Gardiner, Wriothesley, and others conspired against her: Henry, with ill-health, grew more impatient of argument, and "left his accustomed manner of coming and visiting the queen", and she began to visit him when she thought her company would be agreeable, and, "according to her manner, zealously to proceed in the reformation of the church"; until one occasion when the king abruptly changed the subject, and after Catharine's departure said, "A good hearing it is, when women become such clerks; and a thing much to my comfort, to come in mine old days to be taught by my wife".<sup>4</sup>

The bishop of Winchester took the opportunity to expound how well Henry understood matters of religion, how little he needed advice therein, how dangerous to suffer such insolent words from subjects.

Besides this, that the religion by the queen so stiffly maintained did not only disallow and dissolve the policy and politic government of princes, but also taught the people that all things ought to be in common; so that what colour soever they pretended, their opinions were so odious and for the prince's estate so perilous, that (saving the reverence they bare unto her for his majesty's sake) they durst be bold to affirm that the greatest subject in this land, speaking those words that

they were provoked to do so then to "call the things happened fortune de la gue.re", and secondly, "as there want not in the world naughty men of the state of monks and friars, who for malice of the alteration of the estate here, would gladly defame our religion towards God, as though we had with them cast out all", as the members of the mission were sure to be very jealously watched from this point of view, they were warned to avoid controversy, and "in their diet on the fish day and devout hearing of mass, follow the order of the king's majesty's realm"; Holinshed, III, p. 974.

<sup>1</sup> Cf. *Lollardy*, II, pp. 446, 451.

<sup>2</sup> Foxe, V, p. 553.

<sup>3</sup> P. 554.

<sup>4</sup> P. 555.

she did speak and defending those arguments that she did defend, had, with indifferent justice, by law deserved death.

And thus Gardiner and his fellow-conspirators hinted at "such treasons cloaked with this cloak of heresy", and "so filled the king's mistrustful mind, that before they departed the place, the king (to see, belike, what they would do) had given commandment, with warrant to certain of them made for that purpose, to consult together about the drawing of certain articles against the queen, wherein her life might be touched".<sup>1</sup>

They arranged to begin by accusing under the Six Articles Catharine's friends and kinswomen, lady Herbert, lady Lane, and lady Tyrwhit, hoping that when they were arrested and their coffers searched ample matter would be found against the queen, who might then be "by barge, carried by night unto the Tower".

The king at that time lay at Whitehall, and used very seldom, being not well at ease, to stir out of his chamber or privy gallery; and few of his council, but by especial commandment, resorted unto him; these only except, who, by reason of this practice, used oftener than ordinary to repair unto him.

Henry allowed them to go on with their intrigue (according to Foxe, "to try out the uttermost of Winchester's fetches"),<sup>2</sup> but they managed it so clumsily that the paper of accusations against Catharine was dropped, and picked up and brought to her, who "for the sudden fear thereof fell incontinent into a great melancholy and agony", and the king sent to look after her his own physicians, one of whom told her all about the plot.<sup>3</sup> After some encouragement from the king, she went to see him one evening, and he "began of himself, contrary to his manner before accustomed, to enter into talk of religion": so she hastened to explain how well persuaded she was of the subordination of the female sex,

and whereas I have, with your majesty's leave heretofore been bold to hold talk with your majesty, wherein sometimes in opinions there hath seemed some difference, I have not done it so much to maintain opinion,

<sup>1</sup> Foxe, v, p. 556: the prosecution of A. Askew had certainly been with a view to striking at more important people: cf. p. 511 above, and Foxe, v, p. 547.

<sup>2</sup> P. 557.

<sup>3</sup> P. 558.

as I did it rather to minister talk, not only to the end your majesty might with less grief pass over this painful time of your infirmity . . . but also that I, hearing your majesty's learned discourse, might receive to myself some profit thereby. . . .

"And is it even so, sweetheart!" quoth the king,<sup>1</sup> and embraced her in his arms and kissed her; and a day or two later, when they were merry in the garden together, "in cometh the lord chancellor into the garden with forty of the king's guards at his heels", to take the queen and her ladies, but the king stepped aside and listened to him for a moment, and then rated him with "Knave! arrant knave! beast! and fool!"<sup>2</sup> and sent him away, telling Catharine, who interceded for him, "Ah! poor soul, thou little knowest how evil he deserveth this grace at thy hands. Of my word, sweetheart! he hath been toward thee an arrant knave, and so let him go".<sup>3</sup>

The details of the story will not bear any great weight of argument,<sup>4</sup> but on the whole it may be accepted,<sup>5</sup> and used to illustrate some of the methods by which England was governed in the last year of Henry VIII. As to religious uniformity, for instance; that was still the law, and the pattern was set forth, and derelictions punished by royal authority: and on the central matter the authoritative doctrine was as orthodox as any emperor's, rack and fire as thorough as any inquisitor's: but they were not set going as of course by the mere and intolerable enormity of error. The worst divagations could now be compounded for<sup>6</sup> by recanting. The obstinate, indeed, might suffer, and when examples were made it had best be done conspicuously: but the conspicuous were not to be entangled and made away with to satisfy an orthodox punctilio or to reward a political opponent's dexterity.<sup>7</sup> It was not only Catharine who was saved: there was also Sir George

<sup>1</sup> Foxe, v, p. 559.

<sup>2</sup> P. 560.

<sup>3</sup> P. 561.

<sup>4</sup> Cf. Muller's reminder, p. 365, n. 19, from *Biographia Britannica* that the story was not used for Bale's article on Catharine, nor for the proceedings at Gardiner's deprivation.

<sup>5</sup> Cf. *Lollardy*, II, p. 455: for the contrary view, cf. S. R. Maitland, *Essays on the Reformation* (edition 1849), pp. 314 ff.

<sup>6</sup> As they should not have been by the strict law of the Six Articles.

<sup>7</sup> Unless, of course, the king had on other grounds resolved to be rid of them.

Blagge:<sup>1</sup> he was<sup>2</sup> arrested on the lord chancellor's warrant on the evening of 11 July 1546, "nor knew not wherefore he was taken, for he was never examined before he came to his arraignment" next day,<sup>3</sup> when he was "condemned by twelve men" for having said that "the Sacrament of the Altar did no good, neither to quick nor dead".<sup>4</sup>

When this was heard among them of the privy chamber, the king, hearing them whisper together (which he could never abide), commanded them to tell him the matter. Whereupon the matter being opened, and suit made to the king, especially by the good earl of Bedford, then lord privy seal, the king, being sore offended with their doings, that they could come so near him, and even into his Privy Chamber,<sup>5</sup> without his knowledge, sent for Wriothesley, commanding eftsoons to draw out his pardon himself, and so was he set at liberty; who, coming after to the king's presence, "Ah, my pig" (saith the king to him, for so he was wont to call him). "Yea, said he, if your majesty had not been better to me than your bishops were, your pig had been roasted ere this time."

On July 16, the day before his pardon was signed, he went to Smithfield to see the others burnt, and in spite of warning sat with Lascelles:<sup>6</sup> till his death in 1551 he was in good favour and service.

The whole story, added on to the Catharine Parr story, indicates very well the Arabian Nights<sup>7</sup> quality of politics in Henry VIII's England, the jollity and melodrama of it, the extremely personal nature of every equation, the way in which getting at the king (literally) was the ultimate recourse. They indicate too how personal rule by its very excess

<sup>1</sup> So called generally, following Foxe, though he was not really knighted till after Henry's death. For his connection with Surrey, cf. pp. 530 n. 2, 533 n. 8 below.

<sup>2</sup> According to Wriothesley, I, p. 169.

<sup>3</sup> Along with Lascelles and Hemley.

<sup>4</sup> *L. and P.* XXI (1), no. 1383, item 72, Blagge's pardon, 17 July: also for having used unorthodox expressions (though according to Foxe he ever after denied this) about the then familiar dilemma of the consecrated wafer eaten by a mouse. The occasion was Crome's sermon in St Paul's, on the Sunday before Low Sunday.

<sup>5</sup> Lascelles was a server of the privy chamber: but perhaps the prosecution of him had not been without Henry's knowledge: perhaps, indeed, Henry remembered Catharine Howard, and Lascelles suffered the fate of them that bear ill-tidings.

<sup>6</sup> John Louthe, in J. G. Nichols, *Narratives of the Reformation*, pp. 41 ff.: and for Blagge's later career, p. 302; *L. and P.* XXI (2), nos. 331 (81), 476 (63), 555 (4).

<sup>7</sup> Cf. e.g. the story of king Omar al Neman and his family (edition J. C. Mardrus, tome III).

can prepare its own supplanter. There was a council attendant upon the king, of course, whenever he wanted one, but much more often there was a council without any king, even action taken without him, and this not for a king on his travels but for one who was in Whitehall: the consultative body could be constituted and active without its head,<sup>1</sup> the principal ministers go for days without a touch of the hand whose tool they were. Henry, indeed, felt no doubt that he could at any moment intervene to upset or initiate a policy, to end or prolong a life; his ear of state might be allowed to run of its own momentum because he knew that its controls would instantly respond to the slightest inclination of the royal person.<sup>2</sup> But it was a dangerous method for a monarch conscious that he was old<sup>3</sup> and ill, and that his next heir was a little boy, and two girls after that. It was part of the process by which the Tudor council changed from an occasion and an instrument into an institution and an organ.

<sup>1</sup> Cf. *L. and P.* XXI (2), no. 167, Sept. 27, the council corporately inviting a foreign potentate to dinner.

<sup>2</sup> Ill-health and dislike of drudgery caused Henry to authorise the use of a stamp (by Wm. Clere, John Gate, and Ant. Denny) instead of his signature, the schedule of stampings to be inspected by the king monthly: apparently this arrangement, which was made formally in August 1546, had then already been followed unofficially for nearly a year: cf. XXI (1), no. 1537, items 31, 32, 33.

<sup>3</sup> Fifty-five: but that meant more then than now, and Henry was consciously old.



## CHAPTER XXIII

### THE END

Even if persecution had ever been a diplomatic necessity, the necessity had passed before the faggots had been lighted, and two other ways of fixing religion were tried, or at least thought of, in Henry's last year. One was that Francis, now he had made peace with Henry, should reconcile England to Rome,<sup>1</sup> the other that Henry should persuade Francis to break away from Rome. Neither method had ever really any considerable prospect of success. An Italian who was everybody's friend and meant nothing but good set the first in motion, in June 1546. Henry went no further than to declare his willingness to remit his affairs to the General Council, provided that it was assembled in a suitable place to which he could conveniently send the prelates and doctors of his realm.<sup>2</sup> But the emissary did not give up hope: he spent all September in London:<sup>3</sup> Henry, however, would not "give ear to anything that might seem in any wise to touch his policy, which his Majesty and all his realms and dominions will for ever, as they justly may by God's law, maintain in every part": accordingly, though the emissary was personally agreeable and recommended by Francis, his proposal tended "as it were, to an assault of our whole state and policy", and he was dismissed on September 30.<sup>4</sup>

Already before that the other method, of bringing Francis into line with Henry, had been tried and had failed. Towards the end of August the admiral d'Annebault arrived as ambassador from Francis: he was received with the utmost pomp,<sup>5</sup> and after dinner the king stood "in the open face of all the people, and leaning one arm upon the shoulder of the archbishop of Canterbury, and the other arm upon the shoulder

<sup>1</sup> Cf. *L. and P.* xxi (2), pp. vii, viii, ix.

<sup>2</sup> *P.* ix. From June 1546 to Jan. 1547 the council of Trent was suspended.

<sup>3</sup> His address known to Paget but not to the council in London.

<sup>4</sup> xxi (2), no. 203, cf. nos. 192, 194, 223: Bertano attributed his failure to dilatoriness at Rome.

<sup>5</sup> Anne of Cleves attended the welcoming banquet: Foxe, v, p. 562: cf. also Wriothesley, I, p. 172.

of the ambassador". Their conversation has been preserved, as Cranmer in the next reign reported<sup>1</sup> it to his secretary, and Foxe has transmitted it from him. Cranmer said that

a man would hardly have believed it: nor had I myself thought the King's highness had been so forward in those matters as then appeared. I may tell you, it passed the pulling down of roods, and suppressing the ringing of bells. I take it that few in England would have believed, that the King's majesty and the French king had been at this point, not only, within half a year after to have changed the mass in both the realms into a communion (as we now use it), but also utterly to have extirpated and banished the bishop of Rome, and his usurped power, out of both their realms and dominions. Yea, they were so thoroughly and firmly resolved in that behalf that they meant also to exhort the emperor to do the like in Flanders and other his countries or signiories; or else they would break off from him.<sup>2</sup>

That Henry was really determined, or Francis inclined, to reform the mass may be doubted; that Henry liked suggesting to his colleagues in monarchy the repudiation of Roman authority is certain, and it may be noticed that if at the beginning of the summer he had not minded listening to suggestions of accommodation with Rome, at the end he was at least as anti-Roman, and as aggressively anti-Roman, as ever.<sup>3</sup> The forward party at court was in the ascendant.

The fundamental reasons why at the critical moment Henry decisively favoured that party are not clear. Of the personages in court and politics, the queen was nearest to his affections, and (his children apart) Hertford came next: Hertford and Lisle were the only two nobles who were competent to carry on the government if Henry should de cease:<sup>4</sup> Edward was being brought up, perhaps inevitably, to be more protestant than his father ever showed himself. What did Henry most want, in his last months of life? No one knows: to be troubled as

<sup>1</sup> "When the said visitation was put in a readiness": this visitation was first announced in May 1547, and took place that year.

<sup>2</sup> Foxe, v, p. 564.

<sup>3</sup> He was also discussing a league with the Protestant princes, who had so far done well in their war against the emperor: cf. *L. and P.* XXI (2), p. xi.

<sup>4</sup> This was the opinion of Chapuys, who hated them: *Sp. Cal.* VIII, no. 386, 29 Jan. 1547.

little as possible, we may think, and to be able to hope that Edward's rule would continue his. At least, it seems certain that he was in no way overborne by counsellors nor controlled by diplomatic considerations.

Throughout the last year the French and Imperial ambassadors were continually reporting Henry's ill-health, and their own negotiations with the council,<sup>1</sup> consisting sometimes of as few as three persons: Wriothesley, Gardiner, and Paget were consistently the most important, and then St John: Hertford and Lisle were occupied on important, but remote, business. Norfolk was not in great favour, Surrey still less. The imperial ambassador was quite convinced that Henry and his principal councillors were devoted to the emperor, and though anti-papal of course, still properly resolved to allow neither favour nor footing to the Protestants:<sup>2</sup> the Frenchman thought Paget inclined to Francis's service, and transmitted Henry's warning that if Charles were once permitted to command all Germany he "would try to command elsewhere; and the Pope (whom he called Bishop of Rome) and Emperor were one".<sup>3</sup>

At the beginning of September 1546 Henry was well enough to set out on his usual progress, and Wriothesley and Gardiner stayed in London, in charge; a very uneasy charge, because, in spite of the peace with France and of the "contribution" which was levied this year,<sup>4</sup> the treasury was empty and money hard to come by, and because wherever the king was there was a council, and the council with the king sent to the council in London very precise instructions for its handling of

<sup>1</sup> E.g. *Sp. Cal.* VIII, nos. 210, 215, 216, 223, 226, 234, 255, 262, 277, 291, 308, 316: Odet de Selve, *Corr. pol.* pp. 10, 19; *L. and P.* XXI (2), no. 46.

<sup>2</sup> Cf. p. 493 above; and *Sp. Cal.* VIII, nos. 277, 291, 308, June 14 to Aug. 16: but at the beginning of September he was having to complain, very guardedly, of the arrival of Bruno and Sturinius from Protestant Germany, nos. 316, 320, and *S.P.* I, p. 852.

<sup>3</sup> *L. and P.* XXI (1), no. 1207.

<sup>4</sup> On May 11 the council, in spite of the "cumbersome matters" of Crome and the rest, had "gotten leisure to fashion the instructions, with the minute of a letter for practising of a contribution": *S.P.* I, p. 844: p. 854, Sept. 4, contribution coming very slowly in. For the contribution cf. Wriothesley, I, p. 166: "of every person bringing in goods of the value of £15 and upward, 2d. of the £; and of lands from 40s. upward, 4d. of the £, to be paid at end of every month during 5 months", beginning with June.

business:<sup>1</sup> and indeed by this time the tide of royal favour was definitely on the turn. The imperial ambassador thought it worth while to warn the council in London how mutable the world was, and that certain persons (by which he meant Hertford and Lisle) had come into great favour.<sup>2</sup>

Some time about the beginning of October Lisle quarrelled with Gardiner in the council,<sup>3</sup> and actually struck him: for this he was for a time excluded from the council, and reported to be in trouble and danger:<sup>4</sup> but by the beginning of November he was in attendance once more, and seemed to be well received.<sup>5</sup> The French ambassador reported on November 10 that there was a great rumour of dissension and political upheavals, and of extraordinary precautions against treason and conspiracy.<sup>6</sup> Not very much later Hertford and Lisle felt strong enough to use "violent and injurious words" to Wriothesley and St John.<sup>7</sup> All this time Henry was more or less unwell, and on the whole was getting worse.

Gardiner's position in these circumstances was naturally weak. Paget, his old servant and debtor, went over completely to Hertford.<sup>8</sup> At the end of November Gardiner did himself great harm by his reluctance to exchange certain lands with the king, and even the most humble apology<sup>9</sup> produced no more than a very frigid permission to do what was necessary "with our officers"; Henry could "see no cause why you should molest us further".<sup>10</sup> From the middle of November to the middle of January Gardiner did not attend the council.

The ruin of the Howards was the last (and sufficient) achievement

<sup>1</sup> E.g. for resenting the emperor's understanding with the pope. "And albeit H.M. be not named therein, expressly, as the Protestants be, yet, all such being taken for Lutherans and schismatics as disown the Bishop of Rome's authority. . .": *S.P.* 1, p. 857, also pp. 861, 865, 873, 878, and *L. and P.* XXI (2), no. 262.

<sup>2</sup> *Sp. Cal.* VIII, no. 316.

<sup>3</sup> This was the council in attendance on the king.

<sup>4</sup> *L. and P.* XXI (2), no. 347.

<sup>5</sup> As above, and Dasent, I, p. 546.

<sup>6</sup> No. 380.

<sup>7</sup> *Sp. Cal.* VIII, no. 386, p. 556.

<sup>8</sup> Muller, p. 145.

<sup>9</sup> XXI (2), nos. 487, 488, from *S.P.* 1, pp. 883 and 884, Dec. 2.

<sup>10</sup> Dec. 4, no. 493, referring to Foxe, VI, p. 138.

of the progressives.<sup>1</sup> There was nothing else, thought one observer,<sup>2</sup> "to stand in their way except the wealth and authority of the bishops, who are men of wit and experience. It is therefore to be feared that in this coming parliament the bishops will be divested of their property and authority, and will thenceforward receive nothing but certain pensions from the King's coffers". The plan is credible enough, and colour is lent to it by Henry's reminder to Gardiner that even if he had been asked for a surrender instead of an exchange, he ought to have acceded at once. It had indeed already been suggested<sup>3</sup> "that it was meet for the bishops not to be troubled nor vexed with temporal affairs in ruling their honours lordships and manors, but rather, they having an honest pension of money yearly allowed unto them for their hospitality, should surrender unto the king's majesty all their royalties and temporalities"; yet (whether it was the hardiness and godliness of the royal lion,<sup>4</sup> or merely want of health and, soon, of life itself) the king did not allow his wolvisch courtiers to go so far; the bishops, and the universities with their colleges, were saved.<sup>5</sup>

<sup>1</sup> The word does not involve approval. They were on the move and on the make.

<sup>2</sup> Chapuys, writing on 29 Jan. 1547: it was two and a half years since he had left England, with whose affairs (he pointed out) it was especially necessary to be up-to-date, since the English vary "I will not say from year to year, but every moment": *Sp. Cal.* VIII, no. 386. Note also Chapuys' report (p. 556) of Henry's habit of communicating to his councillors whatever is said to him. Chapuys thought that a remonstrance against Henry's ecclesiastical policy might usefully have been addressed to parliament if it were like the old ones, "when the parliament met to punish the Kings", but now Henry himself had told him that if Peter and Paul came to earth and wanted to enter parliament he would not let them: and Chapuys thought that no one there dared open his mouth. Chapuys' looking back to the precedents of Edward II and Richard II would hardly appeal much more to Charles's prejudices than had the same reference by the Pilgrims to Henry's. Cf. *L. and P.* XXI (2), no. 546 (Vander Delft, on Dec. 14), "The Bishops revenues may also suffer"; and on Dec. 24 (*Sp. Cal.* p. 534), "probable that in the parliament which begins next month some strange acts and constitutions will be passed"; hopes to God Henry will survive for many years.

<sup>3</sup> Probably rather more than a year before: at any rate before Dr Butts' death in Nov. 1545, if Morice is right, *Narratives of the Reformation*, pp. 260-3: but the story would fit into 1546 better if Morice may have been mistaken about Butts.

<sup>4</sup> *L. and P.* XXI (2), no. 282: and no. 621, Selve to the French ambassador in Flanders: "Norfolk and his sons are arrested. Parliament meets on 15 Jan. and will treat of some other great changes in this realm".

<sup>5</sup> Above, p. 497. Cf. Herbert (edition 1672), pp. 597, 602. The business of the parliamentary session at the end of 1545 had for some time been kept secret, but

The really important events in Henry's last months, both as illustrating his government and as preparing his successor's, were the making of his will and the breaking of the Howards. On the 6th or 7th of December 1546 Surrey was detained, and on the 12th he and Norfolk were taken to the Tower, the duke deprived of his Garter and his staff of office.<sup>1</sup> "Some people assert confidently that it is because of a secret discourse between them concerning the King's illness six weeks ago, the object being to obtain the government of the Prince." That was the object, no doubt, of all parties: it is difficult to believe that the Howards can have gone so far as the chancellor told (15 Dec. 1546) the imperial ambassador—"pitiable that persons of such high and noble lineage should have undertaken so shameful a business as to plan the seizure of the government of the King by sinister means. The King, he said, was too old to allow himself to be governed, and in order absolutely to usurp the government they intended to kill all the council, whilst they alone obtained complete control over the prince".<sup>2</sup>

"With regard to the son," said Van der Delft, "though he has always been so generous to his countrymen, there is not one of them however devoted to him, but regards him as suspect. The feeling against the father is less severe." The king was still indisposed, but so much occupied with this affair that the queen went alone to Greenwich for the holidays, the first time she had left him at such a season. The councillors inclined to the earl and the admiral,<sup>3</sup> "and since those who were well disposed have changed, it may be assumed that these two have entirely obtained the favour and authority of the King. . . nothing

on 9 Jan. 1546 Van der Delft reported having heard that it had "given the King all the colleges, academies, and chantries" (xxi (1), no. 37). On 26 Feb. 1546 the queen wrote to Cambridge University thanking them for their letter asking her to be their advocate with the king, hoping that Cambridge will be accounted "rather an University of divine philosophy than of natural or moral as Athenes was: she had approached the King, and found that in spite of his property and interest through the consent of parliament, he would rather advance learning and erect new occasion thereof, than to confound those your ancient and godly institutions", no. 279.

<sup>1</sup> xxi (2), nos. 546, 547.

<sup>2</sup> *Sp. Cal.* viii, no. 367: this assembly of the Council had been a specially large one (and more obstinate than ever against the imperial demands) and had no doubt agreed on the story to be told to the ambassador.

<sup>3</sup> Hertford and Lisle.

is now done at Court without their intervention, and the meetings of the Council are mostly held in the earl of Hertford's house. It is even asserted that the custody of the Prince and the government of the realm will be entrusted to them...". In religion most of the people sided with Seymour and Dudley, being "of these perverse sects, and in favour of getting rid of the bishops. They do not, indeed, conceal their wish to see the Bishop of Winchester, and other adherents of the ancient faith, sent to the Tower to keep company with the Duke".<sup>1</sup>

The ambassador's evidence about public opinion cannot be allowed much weight, but on other points he seems remarkably exact, and as to public feeling about Surrey at any rate (in spite of his poetical merits and his courage and honesty) there was reason enough why it should not be very favourable. A foolish proud boy he had been thought, and proud far beyond the limits of wisdom<sup>2</sup> he certainly was: violent also, for in 1537, in the park<sup>3</sup> of Hampton Court some one, probably Beauchamp,<sup>4</sup> having insinuated that Surrey had sympathised with the

<sup>1</sup> *Sp. Cal.* VIII, no. 370, 24 Dec 1546 he added "For the reasons stated above... I am the less surprised, Sire, that the better the news that reaches here of the progress of your Majesty's affairs in Germany the more difficult do I find the council in my negotiations". Hooper wrote to Bullinger (Hastings Robinson, *Original Letters*, p. 42) that the king would take up the gospel if the emperor were defeated: as to the Howards, "they say that both father and son had conspired the death of the king and our prince—a horrible deed, if my account is correct". On the last day of the year, Burcher wrote to Bullinger (Hastings Robinson, *Original Letters*, p. 639) about Norfolk and Surrey's secret attempt to restore the pope and the monks, and about their imprisonment, "nor is anyone wanting but Winchester alone, and unless he also be caught the evangelical truth cannot be restored".

<sup>2</sup> Though he might have remembered that his grandfather Buckingham had forfeited his life for putting his claims and his arms too high, and that his own father had pronounced the sentence. On the other hand, he had a good deal of excuse for setting a high value on himself: in Nov. 1530, when he was twelve and a half, Anne Boleyn had thought to strengthen herself by marrying him to the Princess Mary, and Chapuys had thought that in fact she would thus strengthen Catharine of Aragon: Anne changed her mind, and early in 1532 engaged him to Frances de Vere daughter of the earl of Oxford, and the marriage took place as soon as Surrey was fourteen. In July 1533 Clement VII thought of annulling this marriage (as having been made only *per verba de futuro* and not consummated) and marrying Surrey to Mary as one step towards upsetting the Aragon sentence of nullity: but Charles V thought this would have a bad effect on public opinion in England. Bapst, *Deux Gentilshommes-Poètes*... pp. 175, 178, 190, 192.

<sup>3</sup> I.e. within the verge of a royal palace.

<sup>4</sup> I.e. Seymour, later Hertford.

Pilgrimage of Grace, Surrey struck him, thus rendering himself liable to lose his right hand, as he might have done had not Cromwell persuaded the council merely to relegate him to a sort of open arrest<sup>1</sup> at Windsor, where he began seriously to write poetry.<sup>2</sup> The zeal he showed early in 1539 for preparing defences against Paul III, and Charles and Francis, seems to have helped him back to favour, for in June of that year he was summoned to London to be present at the memorial ceremony for the Empress Isabella, and he was one of the party to meet Anne of Cleves: in May 1541, at an unprecedentedly early age, he was elected knight of the garter:<sup>3</sup> but soon after his violence broke out again, and in July 1542<sup>4</sup> he was committed to the Fleet for an assault, and a year later for eating meat in Lent and breaking windows with a stone-bow.<sup>5</sup> In October 1543 these offences were permitted to be bygones, and Surrey given opportunity for military distinction:<sup>6</sup> in 1545 he was given command at Boulogne; he showed himself brave enough, but as a general he was a failure, and at the beginning of 1546 he was superseded by Hertford.

If the Howard family was so far unlucky in its heir, it was unlucky

<sup>1</sup> For about four months, from the middle of July 1537. And cf. p. 528, n. 2 below.

<sup>2</sup> Bapst, pp. 226-9: *Poems*, 58, 17.

<sup>3</sup> Bapst, pp. 239, 242, 248, 255: by then he was for the second time the cousin of the queen of England. He was present at her execution, and shortly after received a grant of manors.

<sup>4</sup> He was then about twenty-five: he was to be allowed two servants but no banquetting. Bapst (p. 257) thinks the man with whom he quarrelled may have accused him of correspondence with Pole, of which he was suspected on other grounds. From the Fleet he was moved, at his own request, to Windsor, whence Henry released him on recognisances. In the autumn of 1542 he accompanied his father on the Solway Moss campaign but saw little fighting.

<sup>5</sup> Cf. p. 480 above, Froude (1873), IV, p. 254, and Dasent, *A.P.C.* I, pp. 17, 19, 104: for the meat, his defence was a license, but they said he ate it too publicly any way: for the windows he later wrote in satire (Aldine edn. *Poems*, 69) that he broke them to prepare the Londoners for divine punishment of their irreligion: hints were uttered by witnesses that Surrey had asked of his companions (one of whom was T. Wyatt, son of the poet recently deceased) signs of respect usually shown only to princes and had been spoken of as a possible king, *L. and P.* XVIII (1), Jan.-April 1543, nos. 73, 74, 315, 327, 347, 351: Bapst, p. 269, referring to Sloane MS., no. 1523, fol. 37, says the council would have been indulgent on this occasion, had not Seymour and his brother argued for severity.

<sup>6</sup> When he got a handsome testimonial from the emperor to Henry, 17 Nov. 1543, *Sp. Cal.* VI (2), no. 259.



also in the relations between its members. For years the duke had lived not with his wife but with a mistress called Elizabeth Holland, and the duchess's resentment "broke out at last to open rancour"<sup>1</sup> and scandal: Surrey "was but newly, and perchance scarce, reconciled with" his father: the daughter of the house, Mary, widow of Henry's bastard Richmond,<sup>2</sup> inclined to the Protestant party, and disliked her brother.<sup>3</sup>

Norfolk snatched at safety by trying to marry his daughter to Thomas Seymour, and three of his grandchildren to Hertford's children.<sup>4</sup> Such projects were shattered by Surrey's scorn,<sup>5</sup> and the Howard family was left unshielded. Unshielded, to face crushing blows: the first was struck by Sir Richard Southwell,<sup>6</sup> who had been an intimate of the Howard family and more lately had been with Surrey at Boulogne. He "said that he knew certain things of the Earl, that touched his fidelity to the King", and the earl was not helped by his protests to the councillors (Wriothesley, St John, Hertford, and others), "desiring to be tried by justice, or else offering himself to fight in his shirt with Southwell": nor was he helped by the letters which his father wrote to various friends, particularly Gardiner, and the interception of which seems to have been the immediate cause of the father's joining the son in cap-

<sup>1</sup> Herbert, p. 562: and cf. *L. and P.* XXI (2), p. xxxiv. She had certainly been very badly treated, if not quite with the outrageousness which she alleged: cf. *Poems*, pref. pp. xxxii-xli.

<sup>2</sup> With whom Surrey had been brought up and to whom he was tenderly attached. In 1539 Norfolk had tried to marry the widow to Thomas Seymour, who was willing, but for some reason (perhaps Surrey's opposition) the negotiations broke down: Bapst, pp. 236-8.

<sup>3</sup> Her younger brother, Thomas, was also inclined to protestantism, and in May 1536 was summoned before the council for indiscreet "disputation of Scripture matters", and after some difficulty let off with a caution: Bapst, p. 338 and Dasent, I, pp. 400, 408, 411.

<sup>4</sup> *L. and P.* XXI (2), no. 554, and Bapst, p. 338. And cf. n. 2 above.

<sup>5</sup> Cf. Bapst, p. 339; Froude, IV, p. 515.

<sup>6</sup> Cf. J. G. Nichols, *Narratives of the Reformation*, pp. 8 (his son at Benet College under the tutorship of John Louthe), 44 (his presence at the burning of Anne Askew), 139, 140, 167, 187, 188 (zealously adherent to Mary): and cf. *D.N.B.* for his intimacy with the Norfolk family, activity in the Suppression, election to parliament in 1539, appointment as one of the twelve assistants to Henry's executors, opposition to Somerset, imprisonment in Jan. 1550, acquiescence in the Jane Grey attempt, favour from Mary, and dismissal by Elizabeth: and for his brother's reward out of Howard lands.

tivity.<sup>1</sup> Southwell also was imprisoned, but very soon released,<sup>2</sup> and sent with two others to Norfolk's house at Kenninghall.

"The first news of the Duke of Norfolk and his son came thither by" Southwell and his companions.<sup>3</sup> The steward was absent, taking musters, but the investigators got hold of the almoner, barred all doors and gates, and sent for the duchess of Richmond and Elizabeth Holland. The duchess they found "sore perplexed, trembling, and like to fall down", but soon, "coming unto herself again, she was not . . . forgetful of her duty, and did most humbly and reverently, upon her knees, humble herself in all unto Your Highness; saying that although nature constrained her sore to love her father, whom she hath ever thought to be a true and faithful subject, and also to desire the well-doing of his son, her natural brother, whom she noteth to be a rash man, yet for her part she would nor will hide or conceal anything from Your Majesty's knowledge", and she promised to write down all she knew, "And perceiving her humble conformity we did comfort her in your great mercy", and proceeded to search her apartments, "Her coffers and chambers so bare, as Your Majesty would hardly think. Her jewels such as she had, sold, or lent to gage, to pay her debts";<sup>4</sup> but Elizabeth Holland yielded more, and careful inventories were being taken of all the possessions of Norfolk and his family, and all writings and books collected.

What Elizabeth Holland said, we know only so far as we can trust Herbert:<sup>5</sup>

the Duke had told her that none of the King's Council loved him, because they were no noblemen born themselves; as also because he believed too truly in the Sacrament of the Altar. Moreover, that the King loved him not, because he was too much loved in his Country. . . . As also, that the Duke complained that he was not of the most secret or, as it is there termed, the Privy Privy<sup>6</sup> Council. And that the King was much grown of his body, and that he could not go up and down the

<sup>1</sup> Herbert, pp. 562, 563: he does not give his authority, but appears to have had one: cf. *L. and P.* XXI (2), p. xxxvi.

<sup>2</sup> *XXI* (2), nos. 533, 553.

<sup>3</sup> *S.P.* I, p. 888.

<sup>4</sup> *S.P.* I, pp. 889, 890, Dec. 14.

<sup>5</sup> *P.* 563.

<sup>6</sup> Probably a slip of the pen.

stairs, but was let up and down by a Device. And that his Majesty was sickly and could not long endure; and the Realm likely to be in an ill case through diversity of opinions. And that if he were a young man, and the Realm in quiet, he would ask leave to see *Vernacle*; which he said was the picture of Christ given to women by himself as he went to death. As touching his Arms, that she had not heard the Duke speak of his own, but of his Son's, that he liked them not, and that he had gathered them himself knew not from whence; And that he placed the *Norfolk's* Arms wrong, and had found fault with him: And therefore that she should take no pattern of his son's Arms, to work them with her needle in his house, but as he gave them. Furthermore, she confessed that the Earl of *Surrey* loved her not, nor the Duchess of *Richmond* him; and that she addicted herself much to the said Duchess.

Norfolk himself was examined,<sup>1</sup> on the point, among others, of his mind with reference to the pope's authority:<sup>2</sup> "if I had twenty lives, I would rather have spent them all against him, than ever he should have any power in this realm": further, asked whether he had canvassed the possibility of reconciliation with Rome, he denied that he had ever participated in the discussion of such a thing, save that once in council he heard it alleged that Gardiner had said "he could devise a way how the king's majesty might have all things upright with the said bishop of Rome, and his highness' honour saved". He begged that he might be allowed an audience of the king, or at least of his council: "I trust ye think Cromwell's service and mine hath not been like; and yet my desire is to have no more favour showed to me, than was showed to him, I being present. He was a false man; and surely I am a true poor gentleman".

Norfolk thought that surely there was some false man that had laid some great cause to his charge, and begged to be confronted with him,

<sup>1</sup> By St John and Paget.

<sup>2</sup> Cf. p. 355 above and *L. and P.* xii (1), no. 416, Norfolk (then at York, putting the North in awe) to Cromwell, 13 Feb. 1537: Trusts no fault shall be found in him, as Cromwell insinuates, in the suppression of the abbeys and treatment of the traitors therein. Reminds him of what he said when the king examined in the gallery of his opinion in causes of religion. If he be truly reported the king will know he has performed his promise hitherto. Neither here nor elsewhere will he be reputed papist or favourer of naughty religious persons. His words have been such that divers gentlemen yesterday warned him to take heed what he ate or drank in religious houses.

or at least told what the charge was. Never, he said, had any one had greater enemies about the king than he. This very summer, he reminded them, he had begged the king's good offices to arrange marriages between his daughter and Hertford's brother Thomas, and between Surrey's children and Hertford's. How honest was his intent on that occasion! and what malice had he not suffered from Wolsey, Cromwell, Buckingham, Rice, Anne Boleyn, and Catharine Howard! Had he not done good service against Darcy, Constable, Bulmer, Aske, and his own step-mother? "Alas! who can think that I, having been so long a true man, should now be false to his majesty?"<sup>1</sup>

True or false, or what those words meant, were questions unanswered: what did matter was the question who was to control England during Edward's minority. The answer was that the Howards should not do it, and that no one else could while the Howards were in the way, and this was the answer not only of their rivals but of the king too. As to removing the Howards, attainder was a lever powerful enough to remove any one, with however small a fulcrum, and for Surrey at least his heraldic indiscretions supplied fulcrum enough to make more ordinary process effective.

As long ago as the spring of 1543 the council had taken note that some of Surrey's associates called him prince, thought his arms very like the king's, and contemplated the possibility of his succeeding to the throne.<sup>2</sup> Now this August (1546) he had showed Garter King-At-Arms a "scutcheon of the arms Brotherton and St Edward and Anjou and Mowbray quartered, and said he would bear it", and went on saying so, in spite of Garter's protests that "it was not in his pedigree".<sup>3</sup> At Boulogne, in the presence of the king's council there, he talked of painting the arms of England among other coats in escutcheons sent thence to Norwich.<sup>4</sup> His cousin Sir Edmund Knyvet<sup>5</sup> deposed that he

<sup>1</sup> Burnet, vi, pp. 274-7.

<sup>2</sup> P. 525 above, and *L. and P.* xviii (1), nos. 315, 351: and cf. above, p. 524, n. 2.

<sup>3</sup> xxi (1), no. 1425, and no. 555, item 2. Garter king-at-arms, Christopher Barker, was made knight of the Bath on 20 Feb. 1547: Bapst, p. 343.

<sup>4</sup> xxi (2), no. 555, item 7, deposition of his servant Hugh Elles.

<sup>5</sup> They had quarrelled early in 1541: cf. Aldine edn. *Poems*, pref. p. xxiii. Cf. above, p. 404, for his behaviour at the general election of 1539. Norfolk thought he trusted too much to his wit, evidently a family failing shared by Surrey. They were alike

had boasted how high his malice climbed, rejoiced at the death of Cromwell, "that foul churl . . . , so ambitious of others' blood. Now . . . stricken with his own staff".<sup>1</sup> Far worse, in reply to a suggestion that the meetest to rule the prince in the event of the king's death would be such as the king should have specially appointed, "The earl on the contrary held that his father was meetest, both for good services done and for estate".<sup>2</sup> Sir Gawen Carew deposed that he had

heard by the report of the Duchess of Richmond that the Earl of Surrey should give her advice, upon consultation had for the marriage of Sir Thos. Seymour and the said Duchess . . . that although her fantasy would not serve to marry with him, yet, notwithstanding, she should dissemble the matter, and he would find the means that the King's Majesty should speak with her himself; but that she should in no wise utterly make refusal of him, but that she should leave the matter so diffusely that the King's Majesty should take occasion to speak with her again; and thus by length of time it is possible that the King should take a fantasy to you that ye shall be able to govern like unto Madame d'Estampes. Which should not only be a mean to help herself, but all her friends should receive a commodity by the same. Whereupon she defied her brother, and said that all they should perish and she would cut her own throat rather than she would consent to such a villainy.

And the earl himself had spoken to Sir Gawen very disparagingly of the king's councillors "of vile birth".<sup>3</sup>

Herbert<sup>4</sup> reports the duchess of Richmond as deposing "That the Earl her Brother should say, These new men loved no Nobility; and if God called away the King, they should smart for it". About the arms she was very damning, and added a new detail, "that instead of

in another trait also, Knyvet having with difficulty got remission of the penalty of losing a hand for striking some one within the verge of the court.

<sup>1</sup> *L. and P.* XXI (2), no. 555. Item 1.

<sup>2</sup> Item 3, deposition by Edward Warner of Devereux's report of Surrey: item 4, Edward Rogers's deposition of Blagge's report of him: Gawen Carew's deposition of Edward Rogers's report.

<sup>3</sup> Item 5.

<sup>4</sup> *P.* 564: and on p. 563 he makes her say Surrey had indeed wished her to marry Thomas Seymour, and "to endear herself so into the king's favour, as she might the better rule here as others had done". She "seemed much to clear her father": said her brother thought the king was displeased with him for his failure at Boulogne, and his enemies hated him "for setting up an Altar in the Church at Boulogne".

the Duke's Coronet was put to his Arms a Cap of maintenance purple, with powdered Furr, and with a Crown, to her judgement, much like to a close Crown, and underneath the Arms was a cipher, which she took to be the King's cipher, *H.R.*".

There was some pretty indirect evidence, too, of underhand dealings with Marillac:<sup>1</sup> but this was not taken very seriously: and the flouting of the new-made nobility could hardly be counted high treason, though the echoes of it in Norfolk's apology were very unwise, and the excess of it in Surrey might be evidence that he would refuse to tolerate a Seymour-Dudley regimen, even if appointed by Henry's will; similarly, the advice to his sister<sup>2</sup> might pass as showing willingness to control the king, *pro tanto* to destroy the royal will, destroy royalty: but the treason that could be expounded to the public, that had no popular echo and yet was not too metaphysical to reach the popular ear, was the heraldic.

Perhaps it is silly to take heraldry seriously,<sup>3</sup> but it was not so silly when so much more went by descent, and at any rate, if Henry and Somerset took it seriously, Surrey had given them the example. It need not here be discussed whether by virtue of his descent from Thomas of Brotherton<sup>4</sup> Surrey was entitled to quarter the royal arms, whether by his Mowbray descent those of Edward the Confessor,<sup>5</sup> for his father's victory over the king of Scots a royal crown.<sup>6</sup> It has been shown already that the heralds' college was against him;<sup>7</sup> and it was clear enough (clear enough for Henry and the Seymours anyway) that Surrey's heraldic pretensions meant to him a right he was inclined to

<sup>1</sup> Item 6: cf. Bapst, p. 349, for other evidence of communication with foreigners.

<sup>2</sup> It has been suggested that it was in parody of her lowness in contemplating matrimony with a Seymour: alternatively, that it was an ironic insinuation of a tendency to lightness in the lady's temperament. It is not incredible that it was serious, and Surrey certainly felt very insecure after his recall from Boulogne.

<sup>3</sup> It had been taken very seriously by parliament in 1542, 33 H. VIII c. 14 against Prophecies on Names, Arms, Badges, etc., cf. p. 464 above.

<sup>4</sup> Son of Edward I.

<sup>5</sup> The Confessor probably did not have any, but Richard II had granted the Confessor's presumed Arms to be borne by Surrey's ancestor Thomas Mowbray duke of York: it was not certain that the grant extended to descendants, though Mary's first parliament was to decide that it did, cf. F. M. Padelford, *Poems of H. Howard Earl of Surrey* (1928), p. 37.

<sup>6</sup> Cf. Padelford, p. 40.

<sup>7</sup> Cf. p. 529 above.

claim, a Howard right to the protectorate soon and perhaps to the crown before long. That was the crime: and the true horridness of the way it was punished lies in the state of the law which permitted an inclination to be treated as an act, and the inclination itself to be proved by hearsay evidence, by examining the accused and his family (defenceless and overawed) on any charge or on none, by using courts that were too much the king's. That was the legal and constitutional horror: the personal and political horror was that party conflicts should have, and party leaders think them worth, such ends, and that still after sixty years of Tudor government the king dared not trust that his royalty would descend safe and free while the one last feudal family was unbroken.<sup>1</sup>

Henry got to London on 23 December 1546, and was not too ill to busy himself with the fate of the Howards, which he did to the exclusion of almost everything else, and of everybody but his most confidential counsellors and a few gentlemen of the chamber.<sup>2</sup> The councillors went daily to the Tower to examine the two prisoners.<sup>3</sup> The chancellor prepared a series of questions on the legal bearings of the allegations against Surrey, and the king revised them: he inserted in the question about the Arms of England a reminder that Surrey came of the collateral line, and in the question about his advice to the duchess of Richmond the words *do actually go about to rule the king*.<sup>4</sup> Henry was near his end, but he still knew as clearly as ever what he was at.

On December 31 a special commission was issued to Lord Borough, Sir Edward Montague, and two others to enquire into treasons in Norfolk, and on 7 January 1547 before them at Norwich a jury found true an indictment of Surrey under the Succession Act 28 H. VIII c. 7,<sup>5</sup> for maliciously procuring anything to the peril of the king's person or giving occasion whereby the king or his successors might be disturbed in possession: the specific charge was that on October 7 last, at his father's house at Kenninghall, he openly used and traitorously caused

<sup>1</sup> So far as that goes, it seems clear that the king was right, in the light of the history of Seymours and Dudleys and Howards for the next fifty years.

<sup>2</sup> Cf. *L. and P.* XXI (2), nos. 605, 606, 607, referring to *Sp. Cal.*

<sup>3</sup> No. 620, referring to *Sp. Cal.* VIII, no. 373.

<sup>4</sup> *S.P.* I, p. 891.

<sup>5</sup> Cf. p. 290 above.

to be depicted, mixed and conjoined with his own arms and ensigns, the cross fleury and martlets of the Confessor with three labels silver, properly appertaining to none but the heir. On January 10 a commission of oyer and terminer was issued to the lord mayor,<sup>1</sup> lord chancellor and eighteen others, lords, councillors and justices, and on January 13 before them and a jury of twenty-four<sup>2</sup> from the vicinage of Kenninghall, Surrey was tried<sup>3</sup> at the Guildhall.

Already, the day before, his father had made complete submission: no appeals to past services, nor to loyalty, future or past, in all things and above all in causes of religion, could avail, and so, in the presence of nine privy councillors and the two chief justices, he signed his confession—"to have offended the King's most excellent Majesty, in the disclosing and opening of his privy and secret Counsel at divers and sundry times": also he had "concealed high Treason" namely Surrey's use of the Confessor's arms, "whereunto the said earl by no means or way could make any claim or title"; he himself had committed high treason in using the royal arms: "without compulsion, without force, without advice or counsel, I have and do subscribe the premises".<sup>4</sup>

After that, even if not before, Surrey's chance was beyond hope. "The Earl, as he was of a deep understanding, sharp wit, and deep courage, defended himself many ways":<sup>5</sup> "some things he flatly denied, weakening the credit of his accusers by certain circumstances, others he excused with interpretations of his meanings".<sup>6</sup> And so he fought for his life from nine in the morning till five at night,<sup>7</sup> and was condemned to be beheaded.<sup>8</sup>

<sup>1</sup> He was knighted a few days later: Bapst, p. 358.

<sup>2</sup> According to Bapst, who refers to *Baga de Secretis* pouch xiv, the sheriff had returned as jurors Edmund Knyvet and two other enemies of Surrey's, and enquired of the judges whether their names should stand: he was told to strike them out.

<sup>3</sup> *L. and P.* xxi (2), no. 697: by that time Henry was again dangerously ill.

<sup>4</sup> Herbert, pp. 567-9, and *L. and P.* xxi (2), no. 696.

<sup>5</sup> Herbert, p. 565.

<sup>6</sup> Stow (edition 1615), p. 592.

<sup>7</sup> *Grey Friars Chronicle* (ed. J. G. Nichols), p. 53, and Wriothesley, I, p. 177.

<sup>8</sup> After being hanged and disembowelled, but these penalties were remitted: xxi (2), p. xlvii n.: before, he had written in the Tower his paraphrase of Ps. 55, now those of Pss. 73 and 88 and *Ecclesiastes*, including his expressions of forgiveness to Denny and Blagge: see Aldine edn. *Poems*, 82-105, and Bapst, p. 361. Cf. pp. 516 n. 1, 530 n. 2 above.



Meanwhile a meeting of parliament was summoned. There had been a formal meeting and immediate prorogation on 4 November 1546, and a list prepared about then of "causes for consultation in the Parliament" contained nothing but matters of financial and legal detail.<sup>1</sup> Pretty soon it began to be clear that there must be a session in January<sup>2</sup> and that it must deal with great matters. The Howards it must deal with, and "treat of some other great changes",<sup>3</sup> thought the French ambassador. His imperial colleague thought it would probably pass "some strange acts and constitutions":<sup>4</sup> "and the oath of allegiance as successor to the crown will be taken to the Prince, the son of the King, as soon as possible. The discourse here about it is variable".<sup>5</sup>

The succession was the main point, and other steps were being taken about it besides those for the removal of the Howards. On December 26 Henry made the final draft of his will,<sup>6</sup> and completed it on December 30.<sup>7</sup> The main change in it was the exclusion of Gardiner, and that was certainly deliberate and significant enough, even if there be no absolute certainty in Foxe's story<sup>8</sup> how

Sir Anthony Brown, a principal pillar of Winchester's side, pretending unto the king as though by the negligence of the writer the bishop's name had been left out of the king's will, kneeled down to the king's

<sup>1</sup> *L. and P.* XXI (2), no. 344.

<sup>2</sup> The prorogation was till the 14th: and cf. XXI (1), no. 523 for the chancellor's early intimation that the session would actually be necessary.

<sup>3</sup> Selve, *Corr. pol.* no. 82 (Dec. 27), summarised in XXI (1), no. 621.

<sup>4</sup> *Sp. Cal.* VIII, no. 370, summarised in XXI (1), no. 629: he had forebodings about episcopal revenues (*Sp. Cal.* VIII, no. 364).

<sup>5</sup> *Sp. Cal.* VIII, no. 377: summarised in XXI (2), no. 679.

<sup>6</sup> According to Paget, as reported by Foxe, VI, p. 163: he said that the others present were Hertford, Russell, Lisle, Browne, Denny.

<sup>7</sup> *L. and P.* XXI (2), no. 634 prints it, and refers also to Rymer, XV, p. 110.

<sup>8</sup> Vol. v, p. 691: Foxe said he got it from Moice who got it from Cranmer who got it from Denny: the story is partially borne out by the depositions at Stephen Gardiner's trial, Dec. 1551, as reported by Foxe, VI, p. 163, Paget on Henry's aversion from Stephen Gardiner, and putting out him, and Westminster as his follower, from being assistant executors, alone among his own councillors: Paget says not only Browne but the rest then present pleaded for Stephen Gardiner: p. 170, similar testimony from Somerset: and p. 177, from Warwick, who said also that the Council used Stephen Gardiner for answers to ambassadors because he knew the civil law and the Latin tongue "and not for any other credit or estimation": p. 180, Bedford to very similar effect.

majesty, lying in his bed, and said, "My lord of Winchester, I think by negligence, is left out of your majesty's will; who hath done your highness most painful, long, and notable service, and one without whom the rest shall not be able to overcome your great and weighty affairs committed unto them". "Hold your peace", quoth the king, "I remembered him well, and of good purpose have left him out: for surely, if he were in my testament, and one of you, he would cumber you all and you should never rule him, he is of so troublesome a nature. Marry", quoth the king, "I myself could use him, and rule him to all manner of purposes, as seemed good unto me; but so shall you never do."

The will began with dispositions of the king's soul and of his body,<sup>1</sup> declarations of repentance and true belief, masses to be said and poor men provided for, the tombs of Henry VI and Edward IV "made more princely".<sup>2</sup> "And as concerning the Order and Disposition of the Imperial Crown of this Realm", and all that went with it, "for Default of Issue and Heirs of the several Bodies of *Us* and of our Son *Prince Edward*. . . immediately after our Departure out of this present Life our said Son *Edward* shall have and enjoy the said Imperial Crown"; and then the heirs of his body; and then Henry's heirs by Catharine Parr or any later wife; and then Mary, on condition that she marry not without the "Consent of the Privy Counsaillours and others appointed by *Us* to our dearest son *Prince Edward* aforesaid to be of Counsail",<sup>3</sup> or at least of a majority of those still living: then to Elizabeth similarly; then Lady Frances; then Lady Eleanor daughters of Henry's sister the French queen; then "the next Rightful Heirs. . .".

"Also we . . . do constitute and ordain these Personages following our Executors and Performers of this our last Will and Testament. . . That is to say", the archbishop of Canterbury, lord chancellor, St John, Hertford, Russell, Lisle, bishop of Durham, Sir Anthony Browne, Sir Edward Montague, Justice Bromley, Sir Edward North, Sir William

<sup>1</sup> With which was to be buried that of Queen Jane.

<sup>2</sup> Though Henry himself would have been content to be buried anyhow, but that he "would not be noted an infringer of honest worldly policies and customs when they be not contrary to God's laws".

<sup>3</sup> The penalty of breaking the condition was to be that the crown should go to the next nominee as if the breaker were dead.

Paget, Sir Antony Denny, Sir William Harbard, Sir Edward Wootton, and Dr Wootton his brother. "And all these We will to be our Executors and Counsaillours of the Privy Counsaill with our said Son *Prince Edward* in all . . . private Affairs and public Affairs" in pursuance of the will, "as they must and shall answer at the Day of Judgement"; "and that none of them presume to meddle with any of our Treasure or to do anything appointed by our said Will alone, unless the most part of the whole number of their Co-executors do consent and by writing agree . . ., and . . . our said Executors or the most part of them may lawfully do what they shall think most convenient for the Execution of this our Will, without being troubled by our said Son or any others for the same".

Then followed the detail of their duties—payment of debts and redress of injuries, "if any such can be duly proved though to us they be unknown", the completion of grants, gifts and exchanges that may be still formally incomplete: then Edward was declared "according to Justice Equity and Conscience to be our lawful Heir", and to him were given and bequeathed everything except what might be needed for specific legacies, "commanding him on Pain of our Curse . . . that he be ordered and ruled both in his Marriage, and also in ordering of th'Affairs of the Realm as well outward as inward, and also in all his own private affairs, and in giving of offices of charge by th'Advice and Counsaill" of the same sixteen, "Whom We . . . by these Presents signed with our Hand do make and continue of Privy Counsaill with our said Son, and will that they have the Government of our most Dear Son *Prince Edward* and of all our Realms . . . until our said Son and Heir shall be bestowed and married by their Advice, and that the eighteenth Year<sup>1</sup> be expired . . . And furthermore" the earls of Arundel and Essex and ten others "shall be of Counsaill for the aiding and assisting of the forenamed Counsaillours and our Executors, when they or any of them shall be called by our said Executors or the more part of the same". Then came provision for the queen and the princesses, and legacies varying from 500 marks for Cranmer to £50 each for the gentlemen ushers of the chamber, and unspecified small amounts for

<sup>1</sup> Of his age.

the ordinary servants. There were eleven witnesses,<sup>1</sup> and the will was entrusted to Hertford.

It is to be remembered that Henry might have appealed to statute<sup>2</sup> as authorising his testamentary disposition of the kingdom: but it is even more notable that he did nothing of the sort, that he preferred to base his bequest on justice, equity, and conscience, and his expectation of effectiveness on his own special trust and confidence, and his executors' regard for the day of judgment. As for Edward, he was indeed the heir and was so declared: but even to him the succession was *given and bequeathed*, and after him the succession was to be wrenched a long way from divinity and absoluteness, when it was directed from an elder sister to a younger, and lent to this daughter or that only during good behaviour. The conception of Henry's will and the effectiveness of it marked the topmost point of personal authority; but it was not effective for ever,<sup>3</sup> and its very nature, its roots strengthened with statute and its fruit espaliered on council, was antagonistic to pure royalty: that Henry could do so much tended, in this instance as in so many others, to the result that in future parliaments and councils would be able to do more, and therefore kings and queens less, than in the past: though the regency government hastened to draw fresh authority from the new king, child as he was, to get the chancellor re-commissioned, and all officers of the law, and bishops.<sup>4</sup>

It was not only that the succession had been made partly conditional<sup>5</sup> and very incompletely hereditary, but the very document that did that, if it was carefully silent about parliament, found it necessary to be very explicit about council. There was to be in the next half-century an increasing and definitive process of giving to conciliar forms corporate

<sup>1</sup> Rymer, *Foedera*, xv, pp. 110-17, summarised in *L. and P.* xxi (2), no. 634.

<sup>2</sup> 28 H. VIII c. 7 and 35 H. VIII c. 1. It was not a new idea: in Feb. 1514 Margaret of Savoy had written to Henry (*L. and P.* i (edition 1862), no. 4833) hoping he had not forgotten his promise to the emperor to obtain the consent of parliament regulating the succession to the Crown, in favour of his sister the Princess of Castile in default of Henry's body, and enquiring what steps he had taken: Mary Tudor was at this time betrothed to Charles of Castile.

<sup>3</sup> Cf. James's accession after Elizabeth.

<sup>4</sup> Dasent, II, p. 6, Jan. 31 law, and p. 13, Feb. 6 bishops.

<sup>5</sup> N.B. Henry's insistence on proper marriages for his children.

existence (or rather, existences), and a self-conscious more-than-personal continuity, and a clearness of outline; no doubt this process was at work already in Henry's time, and no doubt its decisive effectiveness just after was due mainly to the irresistible facts, the boy, the two women and the Scotsman, but no doubt also the process was recognised—and more, furthered—when Henry defined the list of those who were to be “of Privy Counsail with” his son, and of those others to be “of Counsail for the aiding and assisting of the forenamed”, when he provided that they should act by majority,<sup>1</sup> and left them with nine years before the personal act of a king could interfere with them again. There was no one now who could draw from his finger a ring that would outweigh all the grandees in England, or send a private message to a commander-in-chief giving him orders directly the opposite of those he received from the king in his council.<sup>2</sup> Henry, indeed, much underestimated the necessity of a single person, or rather, over-estimated the effectiveness of his own person, from its death-bed and from the grave. He provided no sort of chairman or president: Hertford's name came, in the natural order of precedence, after Canterbury's and the chancellor's and the steward's. The reality and the counterfeit of Henry's own intention supplied for some little time the necessary monarchical force—kept parliament in a semblance of life, distributed peerages and knighthoods,<sup>3</sup> got the new reign going; but very soon an active leader for the government had to be singled out,<sup>4</sup> the great seal had to change hands, and faction was to begin a competition hardly distinguishable from civil war. In short, Henry could not rule for long after his death,

<sup>1</sup> “. . . the convention was already [at the fall of Wolsey] at least a century old, that council's advice to the king must be, in form at any rate, unanimous”, A. F. Pollard, *Wolsey*, p. 314, with references to Nicolas, *P.P.C.* III, p. 312 and *D.N.B.* (Tiptoft first earl of Worcester).

<sup>2</sup> Cf. *L. and P.* XXI (2), pp. xii ff.

<sup>3</sup> Paget, Henry's chief secretary, and Denny and Herbert, chief gentlemen of his chamber, after Henry's death reported Henry's pleasure, e.g. that the nobility should be made up by the promotion of Hertford, Lisle, St John, etc. and their endowment with Howard lands and offices: cf. Dasent, II, pp. 15-20.

<sup>4</sup> On 31 Jan. 1547: Dasent, II, p. 5: at the same time (p. 6) the council agreed that Wriothesley should yield the great seal to Edward and take it from him again, and then Wriothesley made out new patents for all the officers of law. Within three weeks Wriothesley was deprived of the chancellorship.

and if his council could not rule either, nor even hold together, yet a nominal council nominally making decisions there must be, a council had had to be nominated and changes in its composition had to be announced and divisions in its competence defined, now that its essence and acts were not in the monarch's assent. The adjectives and adverbs (*Privy, in the Star Chamber*, and so on) which were once descriptions (like the *strand* or the *Tottenham Court road*) had become titles, and as such might cease to mean what they said. A council which might be and act without, or even against, the preference of the royal person had come within the imagination of every Englishman who paid any attention to politics.<sup>1</sup> There might be a practical need for a single person at once, and soon there might be once again a royal person who would make decisions really royal and councillors merely advisory once more; but the Privy Council never dwindled back again into privy counsellors.

To act as a body it must have a high degree of homogeneity and so Howards could not be in it along with Seymours, and Gardiner also was left out: so far, the will was a triumph for Hertford and it is significant that it was entrusted to his custody: but it was certainly not an absolute triumph, nor simply his work, or it would have provided better for his position with reference to the other councillors.<sup>2</sup>

The ruin of the Howards, in the opinion of our best authority on that age, was "due to Surrey's folly rather than to Hertford's intrigues":<sup>3</sup> it was due, no doubt, to Surrey's folly largely, and essentially to Henry's decision: the question is about that, and Hertford's share in preparing it.

Since early in October 1546 Hertford had been constant in attendance at council,<sup>4</sup> had been the principal person in it, had (on 23 Jan. 1547<sup>5</sup>) seen his brother sworn of it, had been as near as any one (except his ally Paget) to the king, had seen the Howards ruined and himself entrusted

<sup>1</sup> Cf. p. 517 above.

<sup>2</sup> Cf. A. F. Pollard, *Somerset*, p. 6, and on neighbouring pages his refutation of the theory that the will was forged.

<sup>3</sup> A. F. Pollard, *Somerset*, p. 15.

<sup>4</sup> Dasent, I, pp. 535 ff.

<sup>5</sup> Dasent, I, p. 566.

with a will excluding Gardiner from power. It does not seem possible to doubt that Hertford was working, and that his work was partly responsible, for the ruin of the Howards. It has been argued that Southwell and Wriothesley were primarily responsible for the prosecution of Surrey, and that they "were staunch adherents of Surrey's own religion, and bitter enemies of Hertford":<sup>1</sup> but it is not quite clear how staunchly they<sup>2</sup> then adhered to "Surrey's own religion", nor exactly what Surrey's own religion was, nor how embittered was then their enmity to Hertford. It was the king's mind still which mattered, and when the king's mind was determined to ruin the Howards (or any one else), Wriothesley and Southwell were not likely to be held back by religious or personal sentiments. The royal mind was so determined, and no doubt because it thought futile, and worse, any council of regency that should attempt to include Seymours and Howards, and of the two had chosen Seymours. It is for his share in producing this determination and choice that Hertford must be responsible. It is not necessary to believe that he set out to have his rivals<sup>3</sup> killed: it is certain that he worked to surpass and supplant them, and he knew his times well enough to know that anything like complete success in that enterprise must mean for them ruin, and might very likely mean death: there is no evidence that he shunned these risks, and he and his brother and friends showed no unwillingness to take the profits of success, not merely the offices and powers of the defeated, and their Garters, and their parcel-gilt stirrups, and "another pair of stirrups", but even "doublets hoses caps and shirts".<sup>4</sup>

All this could be made safer by parliament, and Norfolk indeed could not be safely disposed of without parliament: what way parlia-

<sup>1</sup> A. F. Pollard, *Somerset*, p. 16.

<sup>2</sup> Southwell at least: cf. p. 526 above.

<sup>3</sup> Hertford may have felt Surrey a rival the more hateful that he had about four years before paid some sort of court to Lady Hertford: cf. Bapst, pp. 370-4, *Poems* (Aldine edition, 1831), 47, 46, 5.

<sup>4</sup> Surrey's *Poems* (Aldine edition, 1831), pref. p. lxviii: I have failed to find this list in *L.* and *P.* though I suppose it is there. As early as 4 Jan. 1547 Lord Grey had written to Henry from Boulogne "Perceiving by Secretary Paget that the office of stewardship of Augmentations which Norfolk had is no longer to be continued, begs that some other office which Norfolk or Surrey had may be bestowed upon him": *xxi* (2), no. 665.

ment would tend was not doubtful,<sup>1</sup> and what few protests there were beforehand were not effective: Bonner's chaplain, for instance, preached on January 16 at Paul's Cross how Christ and the Baptist, Ezechiel, Joseph and David, had all begun their missions only after they were thirty, from which he induced that none younger ought to preach or have regiment, inveighing against the rising generation, with their discontinuance of sanctimony (for instance, fasting and beads), and "adding, What a world shall it be when they shall have the rule, for if they have the swing it will be treason shortly to worship God".<sup>2</sup>

Parliament met on 14 January 1547: it began with a bill for the new court of augmentations,<sup>3</sup> and one or two other bills, of no importance, and on January 18 the bill attainting Norfolk and Surrey was read for the first time and committed to the attorney- and solicitor-general.<sup>4</sup> On the 19th<sup>5</sup> it was read the second time, and committed to the clerk for engrossing; on the 20th the third time, and sent to the commons. Meanwhile, progress was made with the augmentations bill and bills about cloth-making, informations, hand-guns, fish; and on the 24th the attainder was brought back from the commons and finally passed.<sup>6</sup> On the 27th the chancellor summoned the commons and explained to both houses how the royal majesty wished the attainder to be completed without any delay, for various causes, especially that "certain

Chapuis (*Sp. Cal.* VIII, no. 386, 29 Jan. 1547) thought that if parliament were celebrated with the same amount of liberty as was anciently enjoyed, when the parliament met to punish the kings, some remonstrances might be addressed to it: "But at the present time there is no way of doing this; for if St Peter and St Paul were to return to earth, and seek to enter, the King would not allow them to do so. He openly told me this himself once, at the time that I was insisting upon entering the House, when the legitimacy of the Princess Mary was under discussion. No man present at the sittings dare for his life's sake open his mouth... without watching the will of the King and his Council". But even Chapuis hoped to God Henry would not die, and thought Hertford and Warwick would be the only two competent to carry on. This reference has already been used, above, p. 522, n. 2.

<sup>2</sup> *L. and P.* XXI (2), no. 710.

<sup>3</sup> Whose want of statutory authority was a serious practical inconvenience: cf. XXI (2), no. 647, items 13, 14: and there was a serious attempt just then at re-organising and tightening up revenue collection: cf. nos. 534, 535, Dec. 12.

<sup>4</sup> *L.J.* I, pp. 284, 285.

<sup>5</sup> On which day Surrey was executed: Wriothesley, I, p. 177.

<sup>6</sup> *Expedita*: p. 287.



offices of the said duke's might be conferred on others, and of full right exercised by others, for the most sacred solemnity of the coronation<sup>1</sup> of Prince Edward now approaching": and yet the king's disease prevented him from being present to give the royal assent, and so he had directed his commission to the chancellor and certain other magnates<sup>2</sup> to do so in his name, the commission was dated 27 Jan. 1547, and, with dramatic propriety, witnessed by Southwell: it was Henry's last act, for next day he died.

Surrey was already dead: that royal disease which had hurried on his father's attainder now hastened its own steps and saved his father's life by ending the king's. The royal demise was at first kept secret.<sup>3</sup> Parliament (though its legal existence had ended with Henry's death on the 28th) met again on the 29th, doing nothing of importance, and met for the last time on the 31st, when to lords and commons "in plena videlicet Curia", the chancellor declared

the death of our lord king Henry VIII (on whose soul be God's grace) in the early morning of last Friday;<sup>4</sup> which thing it cannot be said how mournful it was to all, and how sad a hearing, the chancellor indeed could scarce proceed for tears. But at length, abating their tears and pulling themselves together by recalling Prince Edward, imbued with divine genius, and also by reading a good part of the will,...which was done publicly by Sir Wm. Paget principal secretary [that is about the succession in the realm, about governing the commonwealth during the minority... , about paying debts and fulfilling promises, etc.<sup>5</sup>], the lord chancellor declared this present parliament dissolved by the death of the said lord king, and every one free to depart, but warned all the lords to be ready for the coronation of our lord king Edward.<sup>6</sup>

<sup>1</sup> Possibly a slip for "creation".

<sup>2</sup> St John, Russell, Hertford. The commission is noted as stamped by Clerk, *L. and P.* XXI (2), no. 770, item 86: cf. also no. 771, item 36. In 1553 Henry's assent to the attainder was treated as nul and void on the ground that it was signed only with the stamp: A. F. Pollard, *Somerset*, p. 4.

<sup>3</sup> On the 27th ship movements were stopped: the French ambassadors thought this might be in case the king's death, of which they had been assured, should be divulged: they had half a dozen informants, "although the thing is still kept so secret that no man dare mention it", *L. and P.* XXI (2), no. 760.

<sup>4</sup> The 28th.

<sup>5</sup> But not about the perpetual masses for the dead king.

<sup>6</sup> *L.J.* I, p. 291: my translation from the Latin.

Also, the

lord mayor was sent for to the parliament chamber . . . , before the lords of the King's Majesty's Privy Council, and there was declared to them by my Lord Chancellor and others the death of the King . . . the 28th of January, and straightly charging them to keep the King's peace and to look to the safeguard of the King's Majesty's Chamber of London.<sup>1</sup>

Henry's death had been kept secret by the privy council until its public declaration by the chancellor in the parliament chamber, and meanwhile Hertford had secured the person of Edward and the alliance of some important people, especially Paget and Browne.<sup>2</sup> Could he rule now? and what would his success or failure do to council and parliament, church and people?

<sup>1</sup> Wriothesley, 1, p. 178.

<sup>2</sup> A. F. Pollard, *Somerset*, pp. 17, 18.

## LIST OF AUTHORITIES

- Acts of the Privy Council* (ed. J. R. Dasent, Rolls Series, 1890).
- ALLEN, P. S. and H. M. *Erasmii Epistolae* (1906-26).
- *Letters of Richard Fox* (1929).
- Arabian Nights* (e.g. *Mille et Une Nuits*, trans. J. C. Mardrus, t. 1).
- Archaeologia*. Vols. XXV and XXVII. John Bruce on "The oath administered to More".
- Vol. LIII. H. S. Milman on "Henry VIII's ending the pilgrimage to Thomas Becket's shrine".
- ARCHBOLD, W. A. J. *Somerset Religious Houses* (Cambridge Historical Essays, VI, 1890).
- ARMSTRONG, EDW. *The Emperor Charles V* (1910).
- BALDWIN, J. F. *The King's Council in England during the Middle Ages* (1913).
- BAPST, EDM. *Deux Gentilshommes-Poètes de la Cour de Henri VIII* (1891).
- BASKERVILLE, G. On "The Dispossessed Religious after the Suppression of the Monasteries", in *Essays in History* presented to R. Lane Poole (ed. H. W. C. Davis).
- On "Dispossessed Religious of Gloucestershire", in *Bristol and Gloucestershire Archaeological Society*, vol. XLIX (1927).
- Biographica Britannica*.
- BLUNT, J. H. *Reformation of the Church of England* (1882).
- BRACON, HY. DE. *De Legibus et Consuetudinibus Angliae*.
- BREWER, J. S. *Reign of Henry VIII* (ed. Jas. Gairdner, 1884).
- BREWER, J. S., GAIRDNER, JAS., and BRODIE, R. H. *Letters and Papers of Henry VIII* (1867-1910).
- BRIDGETT, T. E. *Blessed John Fisher* (1888).
- BRINKLOW, HY. *Complaynt of Roderick Mors* (ed. J. M. Cowper, 1874).
- BROOKE, G. C. *English Coins*.
- BROOKE, Z. N. *The English Church and the Papacy*.
- BROWN, RAWDON. *Four Years at the Court of Henry VIII* (from the despatches of Sebastian Giustinian) (1854).
- *State Papers, Venice* (1864-90).
- BURNET, G. *History of the Reformation* (ed. N. Pocock, 1865).
- BUSCH, WM. *England under the Tudors*, I, 1485-1509 (1895).
- "Der Sturz des Kardinals Wolsey", in *Historisches Taschenbuch*, 6te Folge, 9ter Jahrgang.
- "Ursprung der Ehescheidung", in *ibid.* 8ter Jhr.
- Cabala... letters of illustrious persons*, 1509-1649 (ed. 1654).
- Cambridge Modern History*.
- CAMUSAT, NIR. *Meslanges Historiques*... 1390-1580 (Troyes, 1619).
- CARTE, T. *History of England* (1747).

- CASTELNAU, M. DE. *Mémoires* (Brussels, 1731).
- CAVENDISH, GEO. *Life of Wolsey* (Dent's edn.).
- CHAMBERS, R. W. *Harpfield's Life of More* (1932).
- CHANNEY (or CHAUNCEY), MAURICE. *Historia... Martyrum Anglorum* (1st edn. 1550; also 1573 and 1889).
- *History of the Sufferings of Eighteen Carthusians* (1890).
- "Chronicle of St Augustine, 1532-7", in *Narratives of the Days of the Reformation* (ed. J. G. Nichols, Camden Society, vol. LXXVII, 1859).
- CLIFFORD, FRED. *Private Bill Legislation*.
- COKE, EDW. *Fourth Part of the Institutes* (edn. 1644).
- COLLIER, JEREMY. *Ecclesiastical History* (ed. T. Lathbury).
- COOPER, C. H. *Annals of Cambridge*.
- COULTON, G. G. *Medieval Studies*.
- CRAIES, W. F. *Statute Law*.
- CRANMER, T. *Remains* (ed. H. Jenkyns, 1833).
- *Works* (ed. J. E. Cox, Parker Society, 1844 and 1846).
- CREIGHTON, CHAS. *History of Epidemics in Britain*.
- CROWLEY, ROB. *Works*, esp. *The Way to Wealth* (ed. J. M. Cowper, Early English Text Society, 1872).
- DANTE ALIGHIERI. *Inferno*.
- DASENT, J. R. *Acts of the Privy Council* (New Series, Rolls Series, 1890 and later).
- DAVIDSON, JAS. *History of Nevenham*.
- DAVIS, H. W. C. (ed.). *Essays in History* presented to R. Lane Poole (1927).
- DEMAUS, R. *Hugh Latimer*.
- Deputy Keeper of Public Records, *3rd Report*.
- D'EWES, SIMONDS. *Journal of... votes, speeches and debates throughout the whole reign of Queen Elizabeth* (2nd edn. 1693; another 1708).
- Dictionary of National Biography*.
- DIETZ, F. C. *English Government Finance, 1485-1558* (Illinois Social Studies, vol. IX, 1920).
- DIXON, R. W. *History of the Church of England* (2nd edn. 1893).
- DODDS, M. H. and R. *The Pilgrimage of Grace*.
- DOWELL, S. *History of Taxation* (1888).
- DYER, JAS. *Les Reports des divers select Matters and Resolutions des Reverend Judges...* (1688).
- EADMER, *Historia Novorum* (Rolls Series, 1884).
- EHSER, P. *Römische Dokumente zur Geschichte der Ehescheidung* (Paderborn, 1893).
- ELLIS, HY. *Original Letters...* (1824-46).
- English Historical Review*. Vol. v. "Aske Narrative", ed. M. Bateson.
- Vol. viii. I. S. Leadam on "The Security of Copyholders in the fifteenth and sixteenth centuries".
- Vol. xxx. E. Jeffries Davis on "The Hunne Case".
- Vol. xxxii. E. R. Adair on "The Statute of Proclamation".
- Vol. xxxii. A. P. Newton on "The King's Chamber".

- English Historical Review*. Vol. xxxvii. P. van Dyke on "Pole's Mission to enforce the Bull of Deposition against Henry VIII".
- Vol. xxxvii. W. T. Waugh on "The Great Statute of Praemunire".
- Vols. xxxvii, xxxviii. A. F. Pollard on "The Council, Star Chamber, and Privy Council".
- Vol. xlii. A. S. Turberville on "The Protection of the Servants of M.P.s".
- Vol. xliii. L. W. Labaree and R. E. Moody on "The Seal of the Privy Council".
- FABRE, P. *Étude sur le Liber Censuum de l'Église Romaine* (Bibliothèque des Écoles françaises d'Athènes et de Rome, fasc. 62, A.D. 1892).
- FIDDES, RD. *Life of Cardinal Wolsey* (1724).
- FISHER, H. A. L. *Political History of England*, 1485-1547.
- FORTESCUE, J. *Works* (ed. Lord Clermont, in vol. 1 of *Sir J. F., Kt., and His Descendants*, 1869).
- FOX, JOHN. *Acts and Monuments* (ed. Geo. Townsend and S. R. Cattley, 1839).
- FRIEDMANN, P. *Anne Boleyn* (1884).
- FROUDE, J. A. *History of England from the Fall of Wolsey*.
- FULLER, THOS. *Church History* (ed. J. S. Brewer).
- GABEL, L. C. *Benefit of Clergy in England* (1929).
- GAIRDNER, JAS. *Letters and Papers Illustrative of the Reigns of Richard III and Henry VII* (Rolls Series, no. 24, 1861 and 1863).
- *History of the English Church in the Sixteenth Century* (1902).
- *Lollardy and the Reformation* (1908-11).
- *Paston Letters* (1904).
- GARDINER, S. R. *History of England*, 1603-42.
- *Constitutional Documents*.
- GARDINER, STEPHEN. *Declaration of Such True Articles as G. Joye hath gone about to confute*.
- *De Vera Obedientia*.
- *Letters* (ed. J. A. Muller, 1933).
- GEE, H. and HARDY, W. J. *Documents Illustrative of English Church History* (1910).
- GIUSTINIAN, SEBASTIAN. *Four Years at the Court of Henry VIII* (trans. Rawdon Brown, 1854).
- GLADISH, D. M. *The Tudor Privy Council* (1915).
- GRAY, H. L. *Influence of the Commons on Early Legislation* (1932).
- Grey Friars Chronicle* (ed. J. G. Nichols, Camden Society, 1859).
- HALL(E), EDW. *Henry VIII* (ed. C. Whibley, 1904).
- HARPSFIELD, N. *Life and death of Sir T. Moore*... (ed. E. V. Hitchcock and R. W. Chambers, 1932).
- HARTE, W. J. *Gleanings from the Common Place Book of John Hooker* (1926).
- HATSCHKE, J. *Englische Verfassungsgeschichte* (Munich and Berlin, 1913).
- HATSELL, JOHN. *Precedents of Proceedings in the House of Commons* (edn. 1818; first published 1776, second 1785).
- HAZLITT, W. C. *Faith and Folklore* (edn. 1905).

- HEARNshaw, F. J. C. On "John Wycliffe and Divine Dominion", in *Social and Political Ideas of Some Great Medieval Thinkers*.  
*Henry VIII, Letters* (Harleian Miscellany, 1809, vol. III).  
 HERBERT OF CHERBURY, EDW. LORD. *Life and Raigne of Henry VIII* (edn. 1649).  
 HOARE, H. W. *Our English Bible*.  
 HOLDSWORTH, W. S. *History of English Law* (3rd edn. 1922-6).  
 HOLINSHED, RAPHAEL. *Chronicles* (1587).  
 HOOK, W. F. *Lives of the Archbishops* (1860-76).  
 HOPE, A. *The First Divorce of Henry VIII* (1894).  
 HUDSON, WM. "A Treatise on the Court of Star Chamber", in *Collectanea Juridica*, vol. II (1791-2).  
 HUME, M. A. S. *Spanish Calendar, or Simancas Papers*, vols. VII and VIII (1899 and 1904).  
 INGRAM, T. D. *England and Rome* (1892).  
*Institute of Historical Research, Bulletin of the*. Vol. v. A. F. Pollard and C. H. Williams on "Council Memoranda, 1528".  
 — Vol. vi. P. Janelle's edition of "A poem on Stephen Gardiner".  
 — Vol. vii. A. F. Pollard on "Wolsey and the Great Seal".  
 — Vol. viii. A. F. Pollard on "An Early Parliamentary Election".  
 — Vol. ix. A. F. Pollard on "Thomas Cromwell's Parliamentary Lists: Edward Hall's Will and Chronicle".  
 — Vol. x. G. Pollard on "The Bibliographical History of Hall's Chronicle".  
 — Vol. x. A. F. Pollard on "A Changeling M.P."  
 JENKYNs, HY. *Remains of Thomas Cranmer* (1833).  
*Journals of the House of Lords, or Lords Journals*.  
 KAULEK, J. *Correspondance politique de MM. de Castillon et de Marillac...* 1537-42 (Paris, 1885).  
 KEILWAY, ROB. *Reports d'ascuns cases...* (1688).  
 KINGSFORD, C. L. (ed.). *Chronicles of London* (1905).  
 LACEY, T. A. (ed.). *Necessary Doctrine and Erudition for any Christian Man*. (1895 and 1932).  
 LATIMER, H. *Sermons* (Parker Society, vol. I, 1844).  
 LEADAM, I. S. *Select Cases in the Court of Requests* (Selden Society, vol. XII, 1898).  
 — *Select Cases before the King's Council in the Star Chamber* (Selden Society, vols. XVI and XXV, 1903 and 1911).  
 LEADAM, I. S. and BALDWIN, J. F. *Select Cases before the King's Council* (Selden Society, vol. XXXV, 1918).  
 LEONARD, E. M. *Early History of English Poor Law Relief*.  
*Letters and Papers of Henry VIII* (ed. J. S. Brewer, Jas. Gairdner, R. H. Brodie, 1867-1910, with supplementary volumes 1920-9).  
 LILJEGREN, S. B. "Fall of the Monasteries", in *Acta Universitatis Lundensis*, N.S. vol. XIX (1923).  
 LINGARD. *History of England*.  
 McILwAIN, C. H. *Growth of Political Thought in the West*.

- MAITLAND, F. W. *Collected Papers* (1911).  
 ——— *Roman Canon Law in the Church of England* (1898).  
 ——— *English Law and the Renaissance* (1901).  
 MAITLAND, S. R. *Essays on . . . the Reformation* (1849).  
 MARSIGLIO (or MARSILIUS MENANDRINUS PATAVINUS). *Defensor Pacis*, esp. the translation by W. Marshall, 1535.  
 MAXSE, LADY. On "A Time of Tribulation", delation of seditious speech at Fittleworth, in *National Review*, no. 585 (Nov. 1931).  
 MAXWELL-LYTE, H. C. *The Great Seal* (1926).  
 MERRIMAN, R. B. *Life and Letters of Thomas Cromwell* (1902).  
 MORE, T. *English Works*, esp. *Dialogue Concerning Tyndale* (esp. ed. W. E. Campbell and A. W. Reed); *Supplication of Soul*; *Confutation of Tyndale's Answer*.  
 MORICE, R. *Anecdotes of Archbishop Cranmer* (in *Narratives of the Reformation*, Camden Society, vol. LXXVII, 1859).  
 MORISON (or MORISYNE), RD. *An Invective against that great and detestable vice, treason . . .* (1539).  
 MULLER, J. A. *Stephen Gardiner and the Tudor Reaction* (1926).  
 ——— *Letters of Stephen Gardiner* (1933).  
 NEALE, J. E. On "The Commons' Privilege of Free Speech in Parliament", in *Tudor Studies* presented . . . to A. F. Pollard (ed. R. W. Seton-Watson).  
 NICHOLS, J. G. *Narratives of the . . . Reformation* (Camden Society, vol. LXXVII, 1860).  
 NICOLAS, N. H. *Proceedings and Ordinances of the Privy Council* (1834-7).  
 NOTESTEIN, WALLACE. *Winning of the Initiative by the House of Commons* (Brit. Acad. 1924).  
*Ordinances for the Household, Edward III to William and Mary* (Society of Antiquaries, 1790).  
 PADEFORD, F. M. *Poems of Henry Howard Earl of Surrey*.  
 PARRY, C. H. *Parliaments and Councils of England* (1839).  
*Paston Letters* (ed. Jas. Gairdner).  
 POCKOCK, N. *Records of the Reformation* (1870).  
 POLE, REG. *Epistolarum . . .* (pars. 1, Brescia, 1744).  
 POLLARD, A. F. *Tudor Studies* presented to J. E. Neale: on "The Commons' Privilege of Free Speech in Parliament".  
 ——— *Evolution of Parliament*.  
 ——— *Cranmer*.  
 ——— *England under Protector Somerset* (1900).  
 ——— *Henry VIII* (1905).  
 ——— *Wolsey* (1929).  
 POLYDORUS VERGILIUS. *Historiae Anglicae* (edns. 1603 and 1651), bks. xxvi and xxvii.  
 PRYNNE, WM. *Brevia Parliamentaria Rediviva*, esp. pt. iv.  
 PULLER, F. W. *Orders and Jurisdiction*.

- RAMSAY, J. H. *The Dawn of the Constitution*.
- REED, A. W. *Early Tudor Drama*.
- REID, R. R. *The King's Council in the North* (1921).
- RIBIER, G. *Lettres et Mémoires d'estat des Roys... François I, Henri II, et François II* (1666).
- ROBINSON, HASTINGS (ed.). *Original Letters relative to the English Reformation...* (Parker Society, 1846 and 1847).
- (ed.). *Zurich Letters, 1558-79* (Parker Society, 1842 and 5).
- Rolls of Parliament or Rotuli Parliamentorum*.
- ROPER, WM. *Life of More* (ed. J. R. Lumby).
- ROY, WM. and BARLOW, JEROME. *Rede me and be nott wrothe* (? 1528, ed. E. Arber, 1871).
- Royal Historical Society, Transactions of the*. Series II, vol. VI. I. S. Leadam on "The Inquisition of 1517, Inclosures and Evictions".
- Series IV, vol. VIII. E. Jeffries Davis on "The Beginning of the Dissolution".
- Rylands (John) Library Bulletin*. Vol. XV (1931), E. F. Jacob on "Some English Documents of the Conciliar Movement".
- RYMER, T. *Foedera, Conventiones, Litterae, etc.*
- SAINT-GERMAN, CHR. *Doctor and Student* (First published, 1523).
- *Treatise concerning the division betwene the spiritualtie and temporalitie* (? 1532).
- SAVINE, A. *English Monasteries on the Eve of the Dissolution*.
- SCOFIELD, CORA. *The Star Chamber* (1900).
- *Life and Reign of Edward IV* (1923).
- SELDEN, J. *The History of Tithes*.
- SELVE, ODET DE. *Correspondance politique, 1546-9* (G. Lefèvre-Pontalis, Paris, 1888).
- SHEPPARD, J. B. (ed.). *Litterae Cantuarienses* (1887-9).
- SKEEL, C. A. J. *The Council in the Marches of Wales* (1904).
- SKELTON, T. *Poetical Works* (ed. A. Dyce, 1843).
- SMITH, SIR THOS. *De Republica Anglorum* (ed. L. Alston, 1906).
- SNAPE, R. H. *English Monastic Finances in the Later Middle Ages* (1925).
- SOAMES, H. *History of the Reformation*.
- Spanish Calendar, or Simancas Papers* (ed. P. de Gayangos, vols. I and II; G. A. Bergenroth, vols. III-VI; P. de Gayangos and M. A. S. Hume, vol. VII; M. A. S. Hume, vol. VIII, 1862-1904).
- SPEDDING, JAS. *F. Bacon's Works* (1857-9).
- *F. Bacon's Letters and Life* (1861-74).
- STARKEY, T. *Dialogue between Cardinal Pole and Thos. Lupset* (ed. J. M. Cowper, Early English Text Society, 1871).
- State Papers, Henry VIII* (1830-52).
- Statutes of the Realm*.
- STOW, J. *The Annales or General Chronicle of England* (1615).
- STRYPE, J. *Ecclesiastical Memorials: Memorials of Archbishop Cranmer*.
- STUBBS, WM. *Seventeen Lectures on... Medieval and Modern History*.
- *Constitutional History* (1878).



- SURREY, HENRY HOWARD EARL OF. *Poems* (Aldine Edition, 1831).  
 ——— *Poems* (ed. F. M. Padelford, Univ. of Washington Publications, 1920).  
 TAILLE, MAURICE DE LA, S.J. *The Mystery of Faith and Human Opinion* (1930).  
 TAIT, JAS. *Taxation in the Salford Hundred* (Cheetham Society, vol. LXXXIII).  
 TANNER, J. R. *Tudor Constitutional Documents* (1922).  
 TAWNEY, R. H. *The Agrarian Problem* (1912).  
 THOMSON, G. SCOTT. *Two Centuries of Family History*.  
 TODD, H. J. *Vindication of Cranmer* (1825, 2nd edn. 1826).  
 TOUT, T. F. *Chapters in Medieval Administrative History*.  
 ——— *Political History of England, 1216–1377*.  
 TWEMLOW, J. A. *Papal Letters* (1893 and later).  
 TYNDALE, WM. *Works* (ed. T. Russell, 1831, esp. *Obedience of a Christian Man; Answer to Sir T. More's Dialogue*).  
*Venice, State Papers, or Venetian Calendar* (ed. Rawdon Brown, 1864–73).  
 VICKERS, K. H. *Humphrey Duke of Gloucester*.  
 WESTCOTT, B. F. *General View of the History of the English Bible* (1905).  
 WHITNEY, J. P. On "The Work of the Wyclif Society", in *Essays in History* presented to R. Lane Poole.  
 WILKINS, D. *Concilia* (1737).  
 WORKMAN, H. B. *John Wyclif* (1926).  
 WRIGHT, THOS. *Three Chapters of Letters relating to the Suppression of the Monasteries* (Camden Society, O.S. vol. xxvi, 1843).  
 WRIOTHESLEY, C. *Chronicle* (ed. W. D. Hamilton, Camden Society, N.S. vol. xi, 1875).  
*Year Books: Edward IV, Henry VII*.  
*Zurich Letters, 1558–79* (ed. Hastings Robinson, Parker Society, Cambridge 1842 and 5).

## INDEX OF PRINCIPAL STATUTES

1 H. VIII c. 4. Limited suits for penalties	5
6 H. VIII c. 25. Royal grants resumed	25
7 H. VIII c. 7. Accounting for revenues	25
26 H. VIII cc. 4, 6. Jurisdiction of Council of Wales strengthened	32
27 H. VIII c. 26. Wales incorporated	33, 254, 282
6 H. VIII c. 5 and	
7 H. VIII c. 1. Husbandry Acts	34
32 H. VIII c. 50. Subsidy Act, 1540	36
3 H. VIII c. 22. Fifteenths and tenths, Feb. 1512	52
4 H. VIII c. 19. Fifteenths and tenths, Nov. 1512	52
4 H. VIII c. 2. Benefit of clergy	52, 112, 115
6 H. VIII c. 14. Tonnage and Poundage	55
6 H. VIII c. 16. House of commons register	56
6 H. VIII c. 26. Subsidy Act, 1514	56
7 H. VIII c. 1. Towns and pastures	56
14/15 H. VIII c. 16. Subsidy Act, 1523	65
21 H. VIII c. 13 cl. xvi. Pluralities Act	135
21 H. VIII cc. 2, 5, 6. Sanctuary, probate and mortuaries	136
21 H. VIII c. 16. Employment of aliens forbidden	136
21 H. VIII c. 24. Repudiation Bill, 1529	137
21 H. VIII c. 25. Wolsey's attainder	142
22 H. VIII cc. 2, 14. Sanctuary	159
22 H. VIII c. 9. Poisoning treasonable	159
23 H. VIII c. 20. First Annates Act	170
24 H. VIII c. 12. Appeals Act	200, 232
25 H. VIII c. 1. Sheep farms	225
25 H. VIII c. 28. Dissolution of Aragon marriage	226
25 H. VIII c. 20. Second Annates Act	226
25 H. VIII c. 21. Papal dispensations and Peter's Pence	227
25 H. VIII c. 14. Heresy Act, 1534	230
25 H. VIII c. 19. Submission of the clergy	232
25 H. VIII c. 22. Act of Succession	233, 239, 290
26 H. VIII c. 1. Supremacy Act	247
26 H. VIII c. 2. Second Act of Succession	248
26 H. VIII cc. 3, 17, 31. Payment of first-fruits to the king	248
26 H. VIII c. 13. Treasons Act	249, 290
26 H. VIII c. 14. Suffragans Act	250
26 H. VIII cc. 22, 23. Attainder of More and Fisher	251
26 H. VIII c. 25. Attainder of Kildare	252
26 H. VIII c. 18. General pardon	252
26 H. VIII c. 19. Subsidy Act, 1534	252
27 H. VIII cc. 5, 7. Wales—justices of peace and forests	254, 282
27 H. VIII c. 15. Canon law revision	280
27 H. VIII c. 27. Court of Augmentations established	280
27 H. VIII cc. 20, 21. Collection of tithe	281
27 H. VIII cc. 17, 19. Sanctuary	281

27 H. VIII c. 10. Statute of Uses	282, 318
27 H. VIII c. 3. Wales, earlier legislation continued	282, 290
28 H. VIII c. 7. Succession Act, 1536	290, 296
28 H. VIII c. 17. Minorities Act	292, 297
28 H. VIII c. 10. Act for extinguishing papal authority	292
28 H. VIII c. 16. Dispensations Act	293
31 H. VIII c. 13. Dissolution of Monasteries	375
31 H. VIII c. 9. King empowered to erect bishoprics	375
31 H. VIII c. 6. Former religious to hold land	376
37 H. VIII c. 4. Colleges and chantries dissolved	384
27 H. VIII c. 22, c. 28 s. 9. Husbandry Acts	385
34/5 H. VIII c. 1. Bible versions	397
31 H. VIII c. 14. Six Articles	406
31 H. VIII c. 10. Precedence Act	413
31 H. VIII c. 8. Proclamation Act	414
32 H. VIII c. 25. Dissolution of Cleves marriage	438
32 H. VIII c. 1. Statute of Wills	440
32 H. VIII c. 14. Navigation Acts confirmed	442
32 H. VIII cc. 10, 15. Six Articles revised	442
32 H. VIII c. 12. Sanctuary	442
32 H. VIII c. 26. Uniformity of rites and ceremonies	443
33 H. VIII c. 21. Attainder of Catharine Howard	459
34/5 H. VIII c. 1. Advancement of True Religion	483
35 H. VIII c. 1. Succession Act, 1544	487
35 H. VIII c. 12. Loans remitted to the Crown	488
35 H. VIII cc. 5, 16. Six Articles modified	489
37 H. VIII c. 4. Disendowment Act	497

## GENERAL INDEX

- Agrarian revolution (cf. Enclosures), council and, 30; Husbandry Acts, 34, 385
- Aliens in London, 39 ff.; taxation of resident, 55; bill against employment of, 136
- Allen, Thomas, on privy council, 15
- Amicable Grant, raised by Wolsey, 1525, 67-8; dropped, 73, 79
- Anabaptists executed, 399, 400
- Annates, history of, 170; opposition of parliament to first Act of, 171 ff.; implications of Act, 173 ff.; second Act of, 226
- Anne, *see* Boleyn, Cleves
- Appeals, Act of, 200 ff., 232
- Aragon, Catharine of, married Arthur, 74; married Henry VIII, 76; appeared before legatine court, 95-6; banished from court, 168; refused to appear before Cranmer, 208; dowry arranged by parliament, 226; died, 286
- Aske, Robt., headed rising in Yorkshire, 319; proclamation from York, 327 ff.; arguments to win over Darcy, 329 ff.; and the Percies, 342; invited to London, 357 ff.; trial of, 363; executed at York, 364; attainted, 418
- Askew, Anne, accused of heresy, 509; burnt, 512
- Audley, T., speaker, 133; chancellor, 214, 295, 492; keeper of the great seal, 492; denounced Nun of Kent, 218; and suppression of monasteries, 272; grantee of monastic land, 382; and trial of Exeter and Montague, 402
- Badoer, Andrea, Venetian ambassador, on French embassy, 1509, 7; on first parliament, 50-1
- Barcelona, Treaty of, 97
- Barnes, Robt., Cromwell's agent in Germany, 420 ff.; preached against Gardiner and recanted, 424 ff.; committed to the Tower, 427; burnt for heresy, 436
- Barton, Elizabeth (Nun of Kent) 217 ff.
- Becket, Thomas, Warham's appeal to precedent of, 24, 192; martyrdom, 101, 268; rebels and, 1489, 106; appointment, 177; Paul III and, 264, 267; rebels and, 1536, 315; Henry VIII and, 398
- Bellay, John du, bishop of Paris, on final negotiations with the papacy, 229
- Bible (cf. Church), forbidden version in Hunne's possession, 114; reading of, encouraged by Injunctions, 1536, 300; establishment of the English, 1526-40, 393 ff.; Cranmer's preface to, 445; revision of Cranmer's discussed in Convocation, 479
- Bishops (cf. Church) excommunicated with Cranmer, 209; appointment of, 176-7, 216, 227; renounced jurisdiction of Rome, 257; act for erection of bishoprics, 375; opinion submitted to the king, 445
- Boleyn, *see* Wiltshire
- Boleyn, Anne, returned from France and gained king's favour, 78; and Norfolk's party, 86; and Wolsey, 92; marquess of Pembroke, 193; Clement VII warned Henry to reject, 169, 193; married to Henry, 198; coronation, 199, 209; sent to Tower, 287; condemned and executed, 288
- Bonner, bishop of London, 410, 427; represented Henry at Marseilles, 1533, 210; and Six Articles Act, 410; opinion, 445
- Buckingham, Edw. Stafford, duke of, descent, 3; Marcher lord, 31; candidate for the throne, 45; accused of high treason, 46; beheaded, 47; hostility to the French alliance, 48
- Calais, council at, 14; complaint of council, 23; Knight and More sent to redress grievances, 17; Campeggio at, 82; election of burgesses, 404;

- M.P. opposed the government on the sacrament, 405; disorders at, 424
- Campeggio, legate authority restricted at Henry's desire, 1518, 80; at Calais, 1518, 82; commission, 90; procrastinating policy, 90 ff.; court adjourned, 98; left country, 1529, 122; private intelligence with Wolsey, 146
- Canon law (cf. Church), 278 ff.; 482
- Capital, royal control of, 63
- Carthusian priors executed, 258
- Catharine, *see* Aragon, Howard, Parr
- Cavendish, George, on Henry's accession, 3-4
- Census, 58, 59
- Chamber, King's, loan of 1522-3 accounted for in, 59; Cromwell and, 215; Tudor use of, 281 *note*
- Chancery, writ of, 13; appeals to lie to, instead of Rome, 232
- Chapuys, on English feeling towards Henry and Catharine of Aragon, 1529, 128; on anti-clerical feeling, 129; on king's influence in parliament of 1529, 130-1; on king's nomination of councillors, 1530, 140; on Wolsey's case, 1530, 141; on Henry's view of the attitude of pope and cardinals, 1529, 150; on the meeting of the magnates, 1530, 152; on the brief executed in Flanders, 153; on Henry's measures to influence public opinion, 154; on protests of clergy against the royal supremacy, 166-7; on the division by which Annates Act passed, 171; on the Supplication against the Ordinaries, 179; on parliament's opposition to the war against Scotland, 182; on parliament's proposal to restrict legislation by the clergy, 185; on Henry's object in promoting the Annates Act, 192; on Cranmer's promotion, 194; on Act of Appeals, 203; on English feeling in favour of Charles V and Catharine, 204; protested on behalf of Catharine, 206; urged Charles V to invade England, 212; on desire of the clergy to retract admission of the Supremacy, 214; on second Annates Act, 229, 230; on troubles in Ireland, 245; on Cromwell and the bishops, 255; on the aristocratic feeling in favour of Catharine of Aragon, 255; threatened that Charles V must soon obey executorial, 256; on cases of More and Fisher, 258; on popular indignation against executorial, 260; on plan for suppression of smaller monasteries, 275; on death of Catharine, 286; on waning of Anne Boleyn's influence, 286-7; on position of Mary Tudor, 302; asked for opinion of French demand for Henry's aid, 310; on cost of the Pilgrimage of Grace, 371; on Henry's rumoured estrangement from Catharine Howard, 451; on marriage of Catharine Parr, 486; on likelihood of spoliation of bishops, 1546, 522; on end of the reign, 541
- Charles V, Clement VII's consideration for, 80; overawed pope, 1529, 133; Henry used German princes against, 170; treaty of Henry and Francis I for mutual assistance against, 1532, 181; relations with Ireland, 212; and aristocratic opposition, 255; unwilling to take action upon death of More and Fisher, 267; renewed war with Francis, 1536, 302; Francis sought Henry's help against, 310; truce with Francis, 1538, 398; alienation from France, 423; possibility of mediation with the pope on Henry's behalf discussed, 1541, 478; Henry's relations with, 1545, 495-6; distrust of France, 504; treaty with Henry, 1546, 504
- Chichele, Henry, archbishop of Canterbury, 105, 107
- Church (cf. Bishops, Clergy, Papacy, etc.), dominant question in the reign, 73; Lancastrian policy of co-operation with, continued by Henry, 80; legates, 80; Henry's view of temporal possessions of, 93; relations with state and people reviewed, 99; early history of restriction of Roman interference, 101 ff.; courts empowered, 1462, 106; as holder of liberties and properties, 107; diversion of endowments, 108;

- corporations of, in danger, 111; anti-clerical feeling in parliament, 1529, 129; probate, mortuaries, pluralities attacked by commons, 134; indictments of premunire against clergy, 157; submission and subsidy, 157; royal pardon, 160; action against heresy, 1530, 164; protests of clergy of both provinces against royal headship, 165 ff.; felonious clerks, 168; Annates Act, 170 ff.; episcopal appointments, provisions, 176; jurisdiction in matrimonial affairs, 178; Supplication against the Ordinaries, 179; fifteenth and tenth, 182; claims to legislate, 183 ff.; king's articles, 186; bishops' oaths to pope and king, 187; submission of clergy presented to king, 188; conflict of allegiance and conscience, 197; clergy recognised king as supreme head, 197; act for payment of first-fruits and tenths to king, 247; suppression of monasteries, 271 ff.; benefices and corporations valued, 273; Ten Articles, 298; Injunctions, 300; act extinguishing Roman authority, 292; dispensations, 294; effect on church and state of the suppression, 385; English Bible, 393 ff.; Bishops' Book, 397; heresy suppressed, 399; uniformity enforced, 403; Six Articles, 406 ff.; Jesuit mission in Ireland, 479; revision of the Bible, 479; committee on ritual, 480; king's Book, 483; Act for Advancement of True Religion, 483; ultimate supremacy in parliament, 485; litany, 1544, 491; discords rebuked by Henry, 499; summary of Tudor policy towards, 501
- Clement VII, supported Charles V, 80; imprisoned in St Angelo, 88; assured Charles that Henry's case should be referred to Rome, 91; refused to quash brief of Julius II, 95; promised Charles to revoke cause, 95; threatened Henry with excommunication, 193; died, 247
- Clergy (cf. Church), granted half-year's income from each benefice, 1523, 63; resisted Amicable Grant, 67; submission of 1532, 187; submission, 1534, 232; Injunctions to, 300
- Cleves, Anne of, marriage arranged by Cromwell, 412, 415, 421; married Henry, 423; marriage dissolved, 437-8; importance of nullity suit, 439-40
- Coinage, 387-8
- Coke, on attainder of Cromwell, 432
- Commons, house of (cf. Parliament), register to be kept, 56; right of protestation, 60-1; debates of, 1523, Wolsey's visit not resented, 63; government party in, 65; murmuring about premunire, 160; access to the king, 457; how far privilege of members shown by Ferrers' case, 465 ff.; importance of Ferrers' case as a precedent for jurisdiction, 471 ff.; privilege of, in case of Charles and Edmonde Fox and Calhill, 475; Trewynnard's and Fitz-Herbert's cases, 476-7; claim of, to be a court of record, 477
- Consistory (cf. Church), Henry's letter discussed in Secret, 1530, 156-7
- Convocation (cf. Church), voted supplies to the king, 63; refused extraordinary supply to the pope, 115; subsidy to obtain pardon, 157; Supplication against the Ordinaries presented to, 182; trial of Latimer in, 189; debate on Ten Articles, 297 ff.; debate on king's marriage, 1533, 207; agreed to Six Articles, 407; discussed revision of Cranmer's Bible, 479; granted subsidy, 482; petitioned for codification of canon law and enforcement of tithe, 482; approved king's Book, 482
- Copyhold, protected by council, 30; not included in Statute of Wills, 441
- Council, relations of the king with councillors, 6, 7; unimportant during Wolsey's ascendancy, 11; executive powers, 13-14; duality and fixity, 14; restriction of effective membership, 15-16; judicature in Star Chamber and White Hall strengthened by Wolsey,

- 16; Eltham Ordinances, 19, 20; law and order, 21; commission of the peace, 21; poor men's causes, 28 ff.; and agrarian revolution, 30; office of president of, 140; clerks of the, 140; position in, 1538, 411; precedence in, 413; and Proclamations Act, 416; composition and procedure of, after fall of Cromwell, 447; seal, 450; fall of Cromwell, 447; seal, 450; jurisdiction of, in connection with perjury, slander, libel, printing, methods of proof, 475; character and powers changing at end of reign, 517; negotiations of, with French and Imperial ambassadors, 520; position after Henry's death, 538-9
- Council in the Marches of Wales, fixity of place and composition, 14; jurisdiction strengthened, 31 ff.; enforcing legislation, 1536, 254
- Council of the North, fixity of place and composition, 14; organisation from 1522, 33 ff.; Holgate made president, 1545, 502; poor men's causes, 502
- Council of the West, 36
- Council, privy, evolution of, 14 ff.; with the king, 14, 16, 35; Wingfield on, 216; composition after Cromwell's death, 447; executive position, 450; exemption of justices belonging to, from duty, 463; difficult questions referred to, 502; with the king, 520; appointed by Henry's Will, 536; position after Henry's death, 538-9
- Court of Augmentations, erected by statute, 280-1; independent of exchequer, 281; receipts from suppressed monasteries, 372; traced monastic property fallen into private hands, 379; chantry property, 384; suits under Disendowment Act, 497
- Court of King's Bench, bishop of London's chancellor arraigned in, 117; Wolsey indicted in, for premonition, 123; judgment of, in Wolsey's case, 125; importance of, in breaking Wolsey, 143; information against whole clergy filed in, 157; offences under Act for extinguishing Roman authority to be presented in, 293; Dacre indicted in, 452; Ferrers arrested by process of, 465
- Court of Requests, in White Hall, 29
- Courtenay, Henry, *see* Exeter
- Cranmer, Thomas, archbishop of Canterbury, proposed to refer Aragon marriage case to the universities, 99; character, 193; consecration, 194 ff.; judged Aragon marriage case, 208; title of legate, 209; excommunicated, 209; provincial visitation, 241; heresy charges against, 410; defended Cromwell, 430; opinion on episcopal authority submitted to king, 445; preface to Bible, 445; accused of heresy, 480 ff.; drew up English litany, 491; defended by Henry against reactionary party, 493 ff.; king's leaning towards, 1545, 502
- Crome, Dr, views on the sacrament, 506
- Cromwell, Thomas, in parliament, 1523, 66; in treaty with Norfolk, 1529, 129; elected to parliament, 1529, 132; finance minister, 137; advised renunciation of papal authority, 137; defended Wolsey, 142; constitutional views, 203; management of parliament, 213-14; became secretary, 1534, 242; his policy, 242; offices held by, 256; vicar-general, 272; chancellor of Cambridge University, 279; commons demanded that he should be given up to them, 306; hated in the North, 309; leading man in the council, 310; supported by Henry against Norfolk, 368; grantee of monastic property, 382; management of general election, 1539, 404; Cleves alliance, 419 ff.; earl of Essex and high chamberlain, 428; appeal to Norfolk, 429; attainder and defence, 430 ff.; beheaded, 435
- Crown (cf. Church, Parliament, Succession), right of Henry to, 1, 2; income, 4; popular conception of, 49; power of, 101; centralisation of power, 110; relation to parliament as stated in

- king's speech, 1529, 133; appointment of bishops, 176-7; supremacy as stated in Act of Appeals, 200; Act of Succession and oath, 1534, 233 ff. and 239 ff.; titles of king, 80, 256; development of royalist doctrine, 278 ff.; new principle of succession, 295; claims to authority in matters ecclesiastical, 301-2; sovereignty, 304; autocracy shown in Pilgrimage of Grace, 326, 343; Succession Act impugned by the Pilgrims, 347; supremacy generally accepted, 369; Proclamation Act, 415 ff.; relations with parliament in Cleves nullity suit, 439; arbitrary will of Henry in politics, 451; royal assent to attainder of Catharine Howard given by commission, 463; protection of servants of, against arrest, 470 ff.; importance of personal eloquence, 591; ultimate supremacy in parliament, 485
- Dacre, dismissed from wardenship of west March, arraigned and acquitted, 243; executed, 452
- Darcy, lord, accused Wolsey, 120; his views in 1535, 255; defended ecclesiastical independence, 308; sheltered archbishop of York, 320; reported on Pilgrimage of Grace, 320, 329; relations with Aske, 329 ff.; asked for terms, 336; summoned to London, 357; in the Tower, 361; condemnation indefensible, 362; trial by peers, 363; executed, 363
- Death of Henry, 542
- Defender of the Faith, 80 ff.
- Derby, earl of, and rebellion in Lancashire, 334
- Disendowment Act, 497
- "Divorce", *see* Marriage
- Dudley, Edm., extortions, 5; proceedings against, and execution for treason, 1510, 5; unpopularity with feudal class, 5
- Dudley, John, *see* Lisle
- Dynastic policy, 44 ff.; illustrated by case of Lord Thomas Howard, 294; attainders of 1539, 419
- Edward, Prince of Wales, birth of revived Welsh devotion, 254; protestant training, 519
- Elizabeth, birth of, 210
- Eltham, Ordinances, 19
- Empson, extortions, 5; proceedings against and execution for treason, 1510, 5; unpopularity with feudal class, 5
- Enclosures, inquisition into, 1517, 30; commission to justices of peace to restore enclosed land, 1521, 30; riots in North, 34; riots of Londoners, 37; legislation about enclosure for sheep-farms, 1534, 225; a cause of Pilgrimage of Grace, 313, 353
- Exchequer, writs of, 13; court of, 281
- Exeter, Henry Courtenay, marquis of, imperialist sympathies, 255; at trial of Darcy, 363; suppression of Pilgrimage of Grace, 364; executed for treason, 402; attainder, 403
- Faith, defender of, *see* Defender
- Ferrers, G., case of, and parliamentary privilege of freedom from arrest, 465 ff.; importance of case as precedent for jurisdiction of the house of commons, 471 ff.
- Feudalism, unpopularity of Empson and Dudley, 5; obligation to aid renewed, 67; king's income, 283; in the North, 308-9
- Fidei Defensor, *see* Defender
- Fifteenths, 172, 182; and tenths, 252, 388-9, 428
- Finance (cf. Revenues, Taxation), as source of disorder, 44; Repudiation Bill, 136-7
- Fisher, John, bishop of Rochester, defended Catharine of Aragon, 97; protested against Probate Bill, 134-5; concerned in matter of Elizabeth Barton, 220 ff.; refused to take oath of allegiance, 239; attainted of misprision of treason, 251; made a cardinal, 259; executed, 259
- FitzHerbert, case of, 1592, and parliamentary privilege of freedom from arrest, 477; case illustrates claim of



- house of commons to be a court of record, 477
- Fox, Edward, king's almoner, sent to Rome with Gardiner, 90; in Henry's confidence, 99
- Fox, Richard, bishop of Winchester and lord privy seal, 7; withdrew from council, 16-17
- Foxe, Dr, on Henry's repudiation of Catharine of Aragon, and on jurisdiction of the archbishop of Canterbury, 1533, 206
- France, embassy to confirm peace with, 1509, 7; Wolsey and war of 1511 with, 9; peace with, 1515, 10; Wolsey and king in, 1520, 18; Buckingham said to have worked against alliance with, 48; war with, 1514, 54; peace, 1514, 55; war, 1522, 58, 60; alliance with Scotland, 60; Wolsey's alliance with, 1527, unpopular, 86; alliance with Empire, 1529, 97; change in policy after Wolsey's fall, pensions, 127; treaty with for mutual assistance against Empire, 1532, 181; attempts to secure sympathies of, against pope, 1532, 191, 193; unwilling to break with England or Empire in matter of Aragon marriage, 229; and case of More and Fisher, 265; papal efforts to win over, after execution of More and Fisher, 267; war against Empire, 1536, 302; wanted English help, 310; truce with Empire, 398; war against Empire renewed, 1539, 412; war with, 384; helped Scotland, 1542, 387; invaded, 1544, 387; embassy of 1539, 412; reasons for Cleves alliance explained to ambassador, 421; alienation from Empire, 423; arrest of Cromwell explained to ambassador in, 430; probability of war with, 1543, 485; Henry's relations with, 1545, 495-6; peace, 1546, 389, 505; territory held in, 503; negotiations of 1546 with, idea of reconciliation with Rome mooted, 518; further reformation suggested to, 519
- Gardiner, Stephen, Wolsey's secretary, 90; sent to Rome, 90, 95; bishop of Winchester, 126; secretary of state, 120, 152; signed letter to the pope concerning Aragon marriage, 1530, 152; principal author of the answer of the ordinaries, 182; represented Henry at Marseilles, 1533, 210; published *De Vera Obedientia*, 1535, 277; opposed Cromwell, 1539, 404-5; dealt with affairs of Calais, 405; mission to France, 421; rivalry with Cromwell, 421 ff.; supported Six Articles, 422; excluded from council, 422; and Cleves nullity suit, 437; principal councillor after Cromwell's death, 447; and possibility of Imperial mediation with the pope, 478; accusation of Cranmer, 481; intrigues against Catharine Parr, 513; out of favour, 521; excluded from Henry's Will, 534-5
- Germany, protestant princes of, Henry's measures to influence opinion of, in cases of More and Fisher, 265; reasons against alliances in 1536 and 1545, 301-2; Cleves alliance, 412 ff.
- Gerrard, Wm., on government of Wales by Rowland Lee, 253
- Giustinian, Venetian ambassador, on Wolsey and peace with France, 1515, 10-11; on Wolsey's power, 16
- Great Seal, surrendered by Wolsey, 123; Act against dispensations might be abrogated by letters patent under, 228; privy council independent of, 450; statute about Ireland despatched under, 465; keeper of, 492 and *note*
- Hall, Edw., *Chronicle*, 26; on accounting for revenue, 25; on Star Chamber, 26; on poor men's causes, 28; on disorders in London, 40-1; on Wolsey's demand for money, 1525, 68; on king's influence in parliament, 1529, 129-30; on Repudiation Bill, 138; on wills, 180; on parliament's discussion of Mary Tudor's legitimacy, 182; on suppression of lesser monasteries, 276; on death of Anne Boleyn, 288; on death of Cromwell,

- 435; on deaths of Lady Salisbury and Dacre, 452; on king's speech, 1545, 500
- Herbert of Cherbury, Lord, on accession of Henry, 1; on testimony against Norfolk, 527; on depositions against Surrey, 530
- Heresy, measures against, 164; Act, 230; suppression of, 399; prosecutions, 410, 503; as to the sacrament, 506 ff.
- Hertford, Edw. Seymour, earl of, afterwards duke of Somerset, in favour, 519 ff.; insulted Wriothesley, 521; meetings of council held in house of, 524; insinuations against Surrey, 524-5; superseded Surrey at Boulogne, 1546, 525; Henry's Will entrusted to, 537; principal person in council, Oct. 1546, 539; worked for ruin of Howards, 540; measures to secure himself on death of Henry, 543
- Hexham, resistance to suppression of priory at, 315
- Holgate, transferred from Llandaff to archbishopric of York, 502; made president of the council of the North, 502
- Holinshed, on Ferrers' case, 469
- Holy League of Cambrai, 85
- Howard, Catharine, married to Henry, 440; charges against, 454 ff.; attainder, 457 ff.; execution, 459
- Howard, Lord Thomas, attainder, 294, 297
- Howard, Lord William, attainted of misprision of treason, 457
- Howards, fall of the, *see* Norfolk and Surrey
- Hunne, Richard, denied authority of spiritual court, 112; charges of heresy against and ultimate conviction, 113-14; possession of forbidden English version of the Bible, 114
- Injunctions, issued, 300; orders about the Bible, 398; reinforced, 451
- Inquisition, merchants' complaints of, sent to Charles V, 505
- Ireland, Cromwell's plans for, 242; Kildare governor of, 244; people considered themselves subject to apostolic see, 244; revolt, 244 ff.; disorders in, 424, 429; submission of, 464; Henry took title of king, 464-5; Jesuit mission in, 479
- Jesuits, in Ireland, 479
- Julius II, granted dispensation for marriage of Henry and Catharine, 1503, 76; brief of, relating to dispensation in Spanish archives, 91-2
- Juries, in trials of Empson and Dudley, 5-6; bishop of London's chancellor charged with murder by lay, 117; grand, found against Fisher, 259; grand, in case of Anne Boleyn, 289; under the Tudors, 289; Yorkshire, bound over to appear in Star Chamber, 310; in trials of Aske and others, 358-9; in case of Surrey, 532-3
- Justices of the peace, commission to, for restoration of enclosed land, 30; to certify presentments to King's Bench under the Act extinguishing Roman authority, 293; and Pilgrimage of Grace, 354; to enforce economic legislation, 463
- Kildare, governor of Ireland, 244; went to Scotland, 244; attainder, 252, 292
- Knight, Dr, mission to Calais, 17; sent to Rome, 89
- Land (cf. Enclosures), use of, 283; Statute of Uses, 283 ff.; tillage of monastic, 312; extent and disposal of monastic, 377-8; legislation, 440; Statute of Wills, 441
- Latimer, Hugh, bishop of Worcester, trial of, 1532, 189-90; and Ten Articles, 298; preached against Pilgrimage of Grace, 339; resigned bishopric, 409; imprisoned, 409; examined on the sacrament, 506
- Law, king's use of forms of, 6; source of, 117; source of jurisdiction, 235-6; Yorkshire and common, 309, 311; procedure in criminal cases, 361; how far territorial in this period, 416; common

- law and royal proclamation, 417;  
principles involved in attainder, 432
- Leasehold tenure, extended as result of  
suppression of monasteries, 386
- Lee, Rowland, bishop of Chester, 253;  
president of the council of Wales,  
253; his good government, 253
- Legates (cf. Church), admission of, con-  
trary to national rules, 80-1; Cam-  
peggio's powers restricted and Wolsey  
made legate *al latere*, 1518, 81; Chichele  
as *legatus natus* t.r. Henry VI, 105;  
Henry VIII's view of Campeggio's  
legacy, 122; no legatine authority to  
be exercised contrary to prerogative,  
141; vexation of the realm by *juris-  
dictionis legatine*, 153; Warham's  
jurisdiction as *legatus natus*, 169;  
Cranmer as *legate of the apostolic see*,  
1533, 209; style of archbishop of  
Canterbury ceased to be *Apostolicae  
sedis legatus*, 1534, 247
- Liberties, suppression of, and special  
jurisdictions, 313
- Lincolnshire, commissioners in, 304;  
rising in, 315 ff.; submission of,  
323 ff.
- Lisle, Arthur Plantagenet, Viscount,  
deputy of Calais, died in the Tower,  
1542, 452
- Lisle, John Dudley, Viscount, after-  
wards successively earl of Warwick  
and duke of Northumberland, in  
favour, 519 ff.; quarrelled with Gar-  
diner, 521; executor of king's Will,  
535
- Loan (cf. Amicable Grant), royal loans  
collected by Council, 13; from  
Londoners, 58; forced distinct from  
benevolence, 67; raised, 1542, 390-1
- London, riots in, 37 ff.; loans from  
citizens, 58; Wolsey's demand for a  
loan, 1525, 67; military loyalty of, 419
- Lords, house of (cf. Parliament), resisted  
commons' attempt to annex jurisdic-  
tion, 237; effect of Dissolution, 384
- Lutheranism, refuted by Henry, 82 ff.;  
spread of, 91 ff., 142; merchants im-  
prisoned for, 156; Six Articles a  
weapon against, 408
- Marches (cf. Council), dangers from,  
243
- Marriage of Henry and Catharine of  
Aragon, nullity suit, the problem, 75;  
history of the marriage, 74 ff.; con-  
ditions admitting of nullity, 79;  
Henry before Wolsey and Warham,  
85; missions of Knight and Fox and  
Gardiner to Rome, 90; commission to  
Wolsey and Campeggio, 90; Cam-  
peggio temporising, 92 ff.; legatine  
court opened, 94; Catharine before  
court, 95; Clement's promise to  
revoke, 95; Fisher's defence of  
Catharine, 97; court adjourned, 98;  
Cranmer suggested case should be  
submitted to the universities, 99;  
Henry desired jurisdiction from  
parliament, 99; Gardiner on advoca-  
tion, 121; cause advoked to Rome,  
Aug. 1529, 123; papal inhibition  
against arguing for Henry, 134;  
universities consulted, precedents for  
so doing, 147 ff.; Henry preparing way  
for denial of competence of curia,  
150; magnates' letter sent to the pope,  
152; pope's reply, 154; letter of Henry  
discussed in Secret Consistory, 156;  
Clement VII deplored Catharine's  
banishment from court, 169; com-  
mons' opposition and king's reply,  
182; papal brief, 1532, 188, 193;  
Emperor's protest, 206; justified by  
convocation, 207; Cranmer declared  
marriage null, 208; excommunication  
of king and bishops, 209; Henry and  
Cranmer appealed to a general  
council, 210; parliament recognised  
annulment, 226, 234; pope declared  
marriage valid, 229
- Mary Tudor, birth, 77; refused to take  
oath of allegiance, 286; reconciled to  
the king, 302
- Matrimonial legislation, 442
- Minorities Act, 292, 295-6
- Monasteries (cf. Court of Augmenta-  
tions), small, suppressed, 1524 and  
1528, 108; commissions for valuation  
of, 257; dissolution of, an exercise of  
royal supremacy, 271 ff.; earlier sup-

- pressions, 271-2; Cromwell as vicar-general, 272; surrender of Christ Church, Aldgate, 272; commissions of enquiry, 273 ff.; lesser suppressed, 275; popular opinion in favour of, 312; difference in monastic spirit in North and South, 313; dissolution a cause of Pilgrimage of Grace, 313; resistance at Hexham, 315; suppressed in the North, 356; proceeds of dissolution of lesser houses, 372; dissolution of larger, 372 ff.; execution of abbots, 374; legality of process unquestioned, 374; dissolution authorised by statute, 375-6; extent and disposal of lands, 377 ff.; pensions and capacities for monks, 380-1; provision for friars and nuns, 381; amounts of grants, 382; dissolution of colleges and chantries, 384; effect of suppression on composition of parliament, 384; social results, 385-6
- Money, king's monopoly in creation of, 63
- Montague, Henry Pole, Lord, accused of treason and executed, 402; attainder, 403
- More, Sir Thomas, speaker of house of commons, 1523, 60; chancellor of duchy of Lancaster, 66; lord chancellor, 126; king's speech to the commons, 1529, 133; resigned chancellorship, 188; concerned in matter of Elizabeth Barton, 220; refused to take oath of allegiance, 239; attainted of misprision of treason, 251; defence, 261; executed, 262; ideas examined, 268
- Morison, Rd., in defence of taxation, 1539, 387
- Mortuaries Act, 134
- Navigation Acts confirmed, 442
- Nevilles, the, family connections and strength in the North, 308; 314; attainder against, 418
- Nicolas, N. H., on the council, 448
- Norfolk, duke of, and Anne Boleyn, 86; managed general election, 1529, 121, 128; insulted Wolsey, 121; president of the council, 126; fought against rebels in Yorkshire, 334; put in charge of the North, 353; sent to the Tower, 523; attempted marriage alliances with Thomas Seymour and Hertford, 526; evidence against, 527; defence, 528; further examination, 532; attainted, 541; saved by king's death, 542
- North (cf. Council), trouble in, and king's progress, 451, 453-4
- Northumberland, earl of, arrested Wolsey, 146
- Nullity, *see* Marriage
- Paget, Sir William, secretary of state, in council, 505, 520; deserted Gardiner for Hertford, 521; executor of Henry's Will, 535
- Papacy (cf. Church), archbishop's desire to refer spiritual causes to, 24; supported by Henry against France, 53; dispensing authority, 75; Henry's good relations with, 80; England's relations with, and limitation of interference, 101 ff.; *plenitudo potestatis*, 145; intervention in episcopal appointments, 176; bishops' oath to, 187; conflict of allegiance to, and conscience, 197; authority to determine appeals repudiated, 201; excommunication of king and bishops, 1533, 209; effects of breach with, 211; powers terminated by Annates Act, 227 ff.; final negotiations with, 229; Aragon marriage declared valid by, 229; jurisdiction of, renounced by bishops, 257; executorials granted against Henry, 209, 260, 267-8; authority renounced by statute, 1536, 292; excommunication of Henry revived, 398; new oath against authority of, 1544, 487; reconciliation mooted, 1546, 518
- Parliament, as grand inquest of the nation, 5-6; position in Wolsey period, 11; granted supplies, 1540, 36; first of reign, 50, 51; privilege of, 53-4; and the "divorce", 99; repudiation of papal claims reviewed, 102, 105, 111; anti-clerical feeling in,

- 114; character and importance of, 1529, 128 ff.; prorogations of, 132; sovereignty, 135; articles against Wolsey, 141 ff.; liberty of speech, 174-5; recognised annulment of Aragon marriage, 226; conferred with the king about annates, 226; decided succession to the crown, 236; as engine of the common law, 284; Reformation parliament dissolved, 1536, 281; initiation of legislation of session of 1534, 235, 237; crown and, 295; how Pilgrimage of Grace contributes to understanding of, 366; election, 1539, 404; and Cleves nullity suit, 439; ultimate supremacy in, 485; met, 1547, 541
- Parr, Catharine, marriage to Henry, 486; accused of heresy, 513
- Paul III, and death of Fisher, 267; and Pilgrimage of Grace, 365; plan for general council, 398
- Percies, the, influence in the North, 309, 314; Aske and, 342
- Pilgrimage of Grace, objects, 304; commissioners in Lincolnshire, 304 ff.; condition of the North, 308 ff.; Cromwell hated in the North, 309; attitude to the clergy, 311; dissolution of monasteries a cause of, 312; monastic spirit, and, 313; part taken by monks, 315; resistance to suppression at Hexham, 315; rising in Lincolnshire, 315 ff.; demands of Lincolnshire rebels, 318; enclosures a cause of, 313, 318; demands of the Pilgrims, 318; rising in Yorkshire led by Aske, 319; suppressed in Lincolnshire by Suffolk, 321 ff.; king's proclamation to Lincolnshire rebels, 323; king's answer to the Lincolnshire articles, 324-5; end of Lincolnshire rising, 326; Aske's proclamation at York, 327 ff.; Aske's arguments to win over Darcy, 329 ff.; surrender of Pontefract Castle, 331; Shrewsbury's campaign, 332; Norfolk's campaign, 334; Lancashire isolated by commission to earl of Derby, 334; negotiations of leaders with Norfolk, 335-6; articles, 336; Norfolk's report, 337; Latimer's sermon against, 339; promises of pardon, 339; king's answer to articles, 340 ff.; council of Pilgrims at Pontefract, 343-5; Henry's measures to influence opinion, 344; articles, 345 ff.; proposal to modify succession and supremacy, 347; submission, 350; Norfolk's arrangement, 350-1; disunity, 352-3; Norfolk in charge of the North, 353; leaders summoned to London, 357; trials, 358-9; executions in Lincolnshire, 360, 361; Darcy in Tower, 361; trial of Darcy, 362-3; trial of Aske, 363; execution of Darcy and Aske, 363-4; causes of failure, 364 ff.; expense of withstanding, 371
- Plantagenets, the, crushing of, 403
- Pluralities Act, 135, 139
- Pole, Edmund de la, *see* Suffolk
- Pole, Geoffrey, arrested and released, 401-2
- Pole, Henry, *see* Montague
- Pole, Reginald, candidate for the throne, 245; created cardinal, 365; legate, 369; attainted, 403 *note*, 418
- Pole, Richard de la, in service of Louis XII, 1513, 45; French alliance, 1523, 60
- Pollard, A. F., on Eltham Ordinances, 20
- Priorities, alien, suppressed, 108
- Privy Seal, writ of, 13; repayment of loans promised under, 58, 488; privy council independent of, 450
- Probate Bill, 134 ff.
- Proclamation Act, 414 ff.
- Provisors and Premunire, Statutes of, 103 ff.; Standish's case, 116; Wolsey found guilty under, 144; royal appointment of bishops strengthened by, 176
- Recognisances cancelled, 4
- Reformation, basis of, as affecting party government, 135; Henry's views on, 150
- Revenues, early in the reign, 4; statutes 24-5; loans, 58; Amicable Grant, 67; benevolence, 69; Repudiation Bill, 137; adequacy and use of, 371; from monasteries and clergy, 372; sources

- of, 1540-3, 388 ff.; enforced loans remitted to crown by statute, 488
- Richmond, duke of, Warden-general and Lieutenant-general in the North, 34; created duke and Lord High Admiral, 78; died, 303
- Saint-Germain, *Spirituality and Temporality*, 165
- Salisbury, Margaret, countess of, arrested, 401; attainted, 403 *note*; executed, 3, 452; estate fell to the crown, 388
- Sanctuary, legislation, 159, 281, 442
- Scotland, alliance with France, 60; war with, 387, 478, 485-6; treaty with, 491
- Seymour, Edw., *see* Hertford
- Seymour, Jane, marriage to Henry, 288, 303
- Shaxton, Nicholas, bishop of Salisbury, a protestant, 298 *note*; resigned, 409; arraigned for heresy, 509; recanted, 511-12
- Shrewsbury, George Talbot, earl of, and suppression of Pilgrimage of Grace, 317, 321, 323, 332 ff., 360; steward of monasteries, 379
- Signet, 310, 450
- Six Articles Act, 406, 442, 489
- Skelton, John, tutor of Henry VIII, on Henry's accession, 1
- Standish, Henry, Warden of the Mendicant Friars, 115 *note*; case before Convocation, 116-18; bishop of St Asaph, 118
- Stannary Courts, 53
- Star Chamber, proceedings of council in, 14, 16; jurisdiction in, fortified by Act, 25; use of the term recognised, 26; change of policy declared in, 71-2
- Stokesley, bishop of London, mission to France, 148; assessment of clergy of the diocese, 167
- Strode, Richard, burgess of Plympton, a tinner, brought before Stannary Courts, 53
- Subsidy Acts, 36, 65, 252
- Succession, new principle, 296; Pilgrims and, 347; as arranged by Henry's Will, 535; Acts, 233, 248, 290, 487-8; in the parliament of 1546, 534
- Suffolk, Charles Brandon, duke of, judged ~~Buckingham~~, 47; dispersed rebels, 1525, 71; in favour, 1529, 120, 124, 128; vice-president of the council, 126; suppressed Pilgrimage of Grace in Lincolnshire, 316, 321 ff.; death, 495
- Suffolk, Edmund de la Pole, earl of, execution, 3, 44-5
- Supremacy, affirmed by Succession Act, 291; Pilgrims and, 345 ff.; proclamation, 400; in preface to Cranmer's Bible, 446; Act of, 247; Gardiner on, 277
- Surrey, Henry Howard, earl of, descent, 529, 531; early life, 524; command at Boulogne, 525; in the Tower, 523; tried at Guildhall, 533; executed, 541 *note*
- Tailer, on Standish, 57
- Taxation, effects of general, 37; Wolsey and, 50; for French war, 54 ff.; opposition to Wolsey's demands for, 61 ff.; cause of riots, 71, 139; in the North, 311; increasing yield of subsidies, 389; Henry VIII and direct, 389; proceeds of, at end of reign, 392
- Tithe, 281, 311, 378
- Tonnage and Poundage, 4, 51, 55
- Tout, T. F., on medieval council, 13
- Treason, nature of, 159; poisoning made treasonable, 160; construction of, at trial of Anne Boleyn, 289; under Act for extinguishing Roman authority, 293; commission to enquire into, in Norfolk, 532
- Treasons Act, 249
- Trewynnard, case of, and parliamentary privilege of freedom from arrest, 476-7
- Tunstall, bishop of Durham, 126; and supreme headship, 165 ff.
- Tyndale, *Obedience*, 165
- Universities, and Aragon marriage, 148; canon law in, 279; saved from surrender of property, 522; bill for, 541
- Uses, Statute of, 282 ff., 318

- Wales (cf. Council), incorporation with England, 33; reorganisation of administration, 252; legislation, 254, 282, 290
- Warham, archbishop of Canterbury, chancellor, 7; referred dispute to council, 23; on Amicable Grant, 73; and royal authority, 191 ff.; charged with premunire, 191; death, 193
- White Hall, council in, 16; court in, 27 ff.
- Will, of Henry, 534 ff.; and personal authority, 537
- Wills, Statute of, 440
- Wiltshire, earl of, embassy to Charles V, 133; attitude to Reformation, 179; privy seal, 126
- Wolsey, Thomas, rise to power, 8, 9; dependence upon the king, 9; lord chancellor, 10; archbishop of York and cardinal, 10, 80; influence in council, 15-16; went to France with king in 1520, 18; developed conciliar jurisdiction, 26 ff.; demands for money from parliament, 1523, 61 ff.; unpopularity consequent upon Amicable Grant, 69; legate, 81; alliance with France unpopular, 86; position in 1527, 86-7; mission to France, 88; and legatine court, 92 ff.; attempts to secure election to papacy, 120; failure of policy, 120; dismissed, 121; indicted for premunire and surrendered great seal, 123; condemned, 125; parliamentary articles against, 141; attainder and Cromwell's defence of, 142; principles involved, 145; arrest, 146; death, 147; as servant of the crown, 147
- Wriothesley, Sir Thomas, principal secretary, 427; keeper of the great seal and chancellor, 492; importance in council, 1546, 520; and Surrey, 540; in Henry's Will, 535
- Wycliffe, 102, 104, 107, 110
- Yorkshire, rising in, *see* Pilgrimage of Grace

